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Wisconsin State Board of Health.

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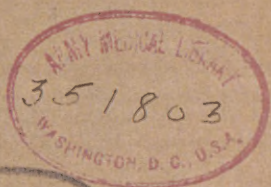
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HEALTH OFFICERS' GUIDE  
OUTLINING  
THE POWERS AND DUTIES  
OF  
BOARDS OF HEALTH

Laws Relating to the Organization of the State and Local Health  
Boards, Nuisances, Offenses Against the Public Health, Water  
Supplies and Sewerage Systems, General Public Health Regula-  
tions, Ordinances, the Law Providing for the Collection of Vital  
Statistics, and Laws on Communicable Diseases.



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WISCONSIN STATE BOARD OF HEALTH

MADISON, WISCONSIN

1940

Box 1271





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*Wisconsin. Laws, statutes, etc.*

# HEALTH OFFICERS' GUIDE

OUTLINING

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OF

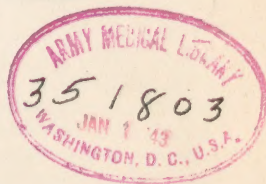
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## WISCONSIN STATE BOARD OF HEALTH

WILLIAM W. KELLY, M.D., Pres.....Green Bay  
MRS. AMALIA O. BAIRD, R.N.....Eau Claire  
JOSEPH DEAN, M.D.....Madison  
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Laws Relating to the Organization of the State and Local Health  
Boards, Venereal Diseases, Against the Public Health, Water  
Supply and Sewerage Systems, General Public Health, Health  
Inspection, the Law Providing for the Collection of Vital  
Statistics, and Laws on Communicable Diseases.



WISCONSIN STATE BOARD OF HEALTH

MADISON, WISCONSIN

1940



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**Note:** Explanatory comment follows the text of each of the above laws.

## TITLE XV.

### Public Health.

#### CHAPTER 140.

##### STATE BOARD OF HEALTH.

140.01	State board of health.	140.055	Sanitary supervision of county institutions.
140.02	Officers.	140.06	Sanitary inspection.
140.03	Meetings; by-laws.	140.07	District; deputy state health officers.
140.04	Offices, printing, obsolete records.	140.08	Local and state conferences.
140.05	Powers and duties.	140.09	County health department.

**140.01 State board of health.** The state board of health shall consist of seven members, appointed by the governor with the consent of the senate. One member shall be appointed each year, and their respective terms of office shall begin on the first Monday of February in the year of appointment and shall continue for seven years.

**140.02 Officers.** A member of the board shall be chosen president. His term shall be fixed by the board, and his duties be prescribed by by-law or statutes. The board shall elect a secretary from their own number or otherwise, who shall hold his office subject to removal at discretion by a vote of five members of the board at a regular meeting, and while in office be a member of the board. The secretary shall be the executive officer of the board and the state health officer. He shall keep a record of the board's transactions and have custody of its books, papers and other property; he shall, so far as practicable, communicate with other similar state boards and local boards of health within this state, and file and keep all reports and correspondence; he shall prepare and distribute to local boards blank forms and instructions as may be necessary, and collect all such information and statistics as concern the work of the board and perform all other duties which may be prescribed by by-law or statute.

**140.03 Meetings; by-laws.** The board shall meet in January and July in each year and at such other times and at such places as may be directed by the board or its president, except that the January meeting shall be held at Madison. The board may adopt by-laws for its government.

**140.04 Offices, printing, obsolete records.** (1) Suitable apartments equipped with fireproof vaults shall be provided in the capitol by the director of purchases for the state board of health. The official printing of the board shall be furnished as provided in subsection (3) of section 20.10 and section 35.03. The board may supply to local health officers and others on request quarantine signs, placards, record books and other uniform blanks and other publications and materials, at actual cost.

(2) Whenever necessary to gain needed vault space, the board of health may turn over to the director of purchases for destruction obsolete records in its possession, as follows:

- (a) Of licensing departments, after five years.
- (b) Orders of the board, after ten years.
- (c) Original morbidity reports of physicians, after six years.
- (d) Inspection reports, after five years. [1931 c. 45 s. 1]

**140.05 Powers and duties.** (1) The state board of health shall have general supervision throughout the state of the health and life of citizens, and shall study especially the vital statistics of the state and endeavor to put the same to profitable use. It shall make sanitary investigations into the causes of disease, especially epidemics, the causes of mortality, and the effect on health of localities, employments, conditions, habits and circumstances, and make sanitary inspections and surveys in all parts of the state. It may, upon due notice, enter upon and inspect private property. It shall have power to execute what is reasonable and necessary for the prevention and suppression of disease. It shall voluntarily or when required, advise public boards or officers in regard to heating and ventilation of any public building or institution. It may send its secretary or a committee to any part of the state to investigate the cause and circumstances of any special or unusual disease or mortality, or to inspect any public building; and such officers shall have full authority to do any act necessary therefor. The board may establish bureaus and shall possess



## 140.05 STATE BOARD OF HEALTH

all powers necessary to fulfill the duties prescribed in the statutes and to bring action in the courts for the enforcement of health laws and health rules. It may empower the state health officer to act for the board upon such matters as it may determine in issuing and enforcing orders in compliance with law and rules and regulations adopted by the board. Whenever anyone feels aggrieved by any order of a state health officer, he may appeal to the board.

(2) The board shall disseminate such health information as it deems proper. It shall recommend from time to time works of hygiene for use in the public schools and shall co-operate with the several educational institutions and the school system of this state in disseminating information to the general public in all matters pertaining to health, and shall use the research facilities of the University of Wisconsin for the preservation and improvement of the public health under such rules and regulations as may be agreed upon with the regents of the university, and facilitate the special instruction of students in sanitation, hygiene and vital statistics in any school or department of the university in manner not inconsistent with and not interfering with the orderly and efficient administration of the public health work.

(3) The board shall have power to make and enforce such rules, regulations and orders governing the duties of all health officers and health boards, and as to any subject matter under its supervision, as shall be necessary to efficient administration and to protect health, and violation shall be punished by fine of not less than ten nor more than one hundred dollars for each offense, unless penalty be specially provided. The rules and regulations shall bear the seal of the board, be attested by the state health officer, and be published in the official state paper and distributed in pamphlet or leaf form to all health officers and any citizen asking for the same. They shall not be effective until thirty days after publication. All rules and regulations so adopted and published and all orders issued by the board in conformity with law shall be valid and in force, and prima facie reasonable and lawful until they are found otherwise in an action brought for that purpose or until altered or revoked by the board.

(4) Any member of the board may administer oaths, certify to official acts, issue subpoenas, compel the attendance of witnesses, and production of papers, books, documents and testimony. Witness fees and mileage shall be paid by the state and charged to the appropriation for the board, but no witness subpoenaed at the instance of parties other than the board shall be entitled to fees or mileage from the state, unless the board shall certify that his testimony was material.

(5) The board shall keep a full and complete record of proceedings before it on any investigation, and have all testimony taken by its stenographer.

(6) The board shall, in October of each even-numbered year, report to the governor, its transactions, investigations and discoveries during the preceding term, with suggestions for legislation.

(7) The board shall have power to make and enforce such rules, regulations and standards as it shall deem necessary to insure proper sanitary conditions in the development and maintenance of lake and stream shore plats and to comply with the provisions of section 236.09 of the statutes.

(8) The board shall have power to license and exercise supervision over maternity hospitals as provided in sections 48.43 to 48.47.

(9) The board shall have power to establish, equip and operate a state branch laboratory of hygiene in a city accessible to physicians and health officers in the northern part of the state for the conducting of bacteriological and chemical examinations of material from the various contagious and infectious diseases or material from suspected contagious and infectious diseases of men and animals when public health is concerned; on condition that suitable quarters for such laboratory shall be offered to the state free of charge for rent, light, heat and janitor service. The board may also establish and aid in maintaining in conjunction with the cities of the state not more than seven state co-operative laboratories. All such co-operative laboratories shall be operated in such manner and under such conditions as the board may determine in its rules and regulations governing the state public health laboratories.

(10) The board shall investigate complaints of violations of chapter 147, notify prosecuting officers, and institute proceedings.

(11) Any physician knowing or having reason to know that a patient treated or visited by him has cancer, carcinoma, sarcoma or other malignant growths shall report the same to the state board of health, in writing, on blanks furnished by said board and as it directs. These reports shall be confidential and not open to public inspection. [1931 c. 67 s. 169, 169a; 1933 c. 111]



**Note:** Under (1) state board of health has authority to make cancer reportable disease. 21 Atty. Gen. 1127.

Health officer or board of health, or its employe or agent, is not protected in destroying property as nuisance if in fact no nuisance exists. 22 Atty. Gen. 152.

State board of health may make regulations requiring sanitary production of fluid milk, cream, skimmed milk and buttermilk if such regulations are reasonably necessary as health measure or to prevent spread of or to suppress communicable diseases, pro-

vided such rules are in aid of or supplemental to legislative standards and not in conflict therewith. Such rules may be enforced by inspectors employed by department of agriculture, this arrangement being with common consent of both departments. If rule is within limits of delegated power, it would not be invalid merely because it is made applicable to certain situations or localities, if classification is consonant with constitutional legislative classification. 27 Atty. Gen. 516.

**140.055 Sanitary supervision of county institutions.** (1) The state board of health shall investigate and supervise the sanitary conditions of all the charitable, curative, reformatory and penal institutions of every county and other municipality, all detention homes for children and all industrial schools, hospitals, asylums and institutions, organized for the purposes set forth in section 58.01.

(2) The board shall annually and oftener, if necessary, and whenever required by the governor, visit the jails, municipal prisons, houses of correction, workhouses and all other places in which persons convicted or suspected of crime or insane persons are confined and ascertain the sanitary conditions thereof.

(3) The provisions of subsection (2) of section 46.16 shall apply to such investigations and visitations except that the expenses thereof shall be charged to the appropriation made to the state board of health. [1939 c. 233, 473]

**Note:** Subsection (1) is from 46.16 (1) (a); subsection (2) is from 46.16 (1) (c) and (e). See Revisor's note to chapter 50.

**140.06 Sanitary inspection.** (1) The state board of health may appoint a state sanitary inspector, who shall be a medical practitioner holding a Wisconsin license, and shall possess such other qualifications as the board shall determine.

(2) It shall be the duty of the sanitary inspector to assist in the work of the board under its direction to the end that the laws and rules adopted by said board for the preservation of the public health may be strictly enforced in the various parts of the state. The inspector shall have the same right of inspection in regard to all matters affecting the public health as has been, or may be, conferred upon the state or local boards of health. He shall, under the direction of the board make thorough and complete investigations of nuisances, sources of sickness, infectious or contagious diseases, water supplies, and sewerage disposal systems, the sanitary condition of public buildings, jails, schoolhouses, school grounds, hotels, and such other work as is found necessary to improve the general sanitary and hygienic conditions. He shall make special investigations concerning the prevalence of tuberculosis in any locality, and assist the board in enforcing laws and rules adopted by the board relating to tuberculosis.

(3) The inspector shall immediately after completion report in writing to the secretary of the board a complete account of the essential facts disclosed by an investigation, together with recommendations made and work done.

**140.07 Districts; deputy state health officers.** (1) The state board of health shall from time to time divide the state into sanitary districts, not exceeding ten, and it shall appoint for each a deputy state health officer, who shall hold office during efficiency and good behavior and who may be removed for cause by the board after opportunity to be heard. He shall not during his term of office engage in any occupation which would conflict with his official duties, and shall receive an annual salary to be fixed by the board, not exceeding three thousand dollars, and shall receive his actual and necessary official expenses.

(2) The deputy state health officer shall have jurisdiction throughout his district; and he shall have in pursuit of his official duties right of entry into any workshop, factory, dairy, creamery, slaughterhouse or other place of business or employment. He shall carry out the instructions of the state board of health and make such investigations and reports as the board may require. He shall, when required by the board with the help of local health officers, inspect and report upon the sanitary conditions of streams and sources of public water supplies, schools and schoolhouses, dairies, creameries, slaughterhouses, workshops and factories, and of all places where offensive industries are conducted.

(3) The deputy state health officer shall make careful inquiry, when required by the state board of health, into the effects of the different kinds of employment upon the health of employes and operators, with special reference to tuberculosis and to lead and phosphorous poisoning and other industrial diseases, and in all such investigations and inquiries he shall have the power to administer oaths. He shall enforce any public health statute, or rule or regulation of the state board of health or of any local board of health



or health officer when such local board of health or health officer neglects or refuses to enforce such statute, rule or regulation, after due notice by him or by the state board.

(4) The deputy state health officer, under the direction of the state board and subject to laws, rules and regulations relating to public health, shall:

- (a) Keep himself informed as to the work of each local health officer.
- (b) Aid each local health officer in the performance of his duties, and particularly on the appearance of communicable disease, and he shall respond promptly when called upon for advice or assistance by any board of health or health officer.
- (c) Assist each local health officer in making an annual sanitary survey and in maintaining a continuous sanitary supervision.
- (d) Adjust questions of jurisdiction arising between local health officers.
- (e) Study the causes of excessive mortality from any disease in any portion of his district.

(f) Promote efficient registration of marriages, births, deaths and accidents.

(g) Inspect from time to time all labor camps and enforce the regulations of the state board of health in relation thereto.

(h) Endeavor to enlist the co-operation of all organizations of physicians within his district in the improvement of the public health therein. [1937 c. 228]

**140.08 Local and state conferences.** (1) The state health officer, directly or through deputy state health officers, may call a biennial state conference of health officers, and may call local conferences.

(2) Deputy state health officers and local health officers shall attend such conferences, but local officers need not attend more than one state and one local conference a year.

(3) The expense of attendance of local health officers shall be paid by the municipality, upon certificate of the state or deputy state health officer, but only for one state and one local conference a year.

**140.09 County health department.** (1) **POWER OF COUNTY BOARD.** The county board of any county may in its discretion organize a county department of health and may employ a county health officer and such other assistants as are necessary to carry on the activities of such county health department and fix their compensation.

(2) **HEALTH OFFICER, ELIGIBILITY, DUTIES.** The county health officer shall be a licensed physician especially trained in health work and, except in counties governed by sections 16.31 to 16.44, shall be selected from an eligible list submitted by the state board of health. The county department of health shall be under the immediate direction of the county health officer, who shall give his entire time to the work.

(3) **DEPARTMENT'S POWERS.** The county department of health when established in any county, shall have all the powers and authority now vested in local boards of health and local health officers and shall have authority to enforce such rules and regulations as may be adopted by the state board of health under the laws of the state.

(3a) **LOCAL BOARDS AND OFFICERS ABOLISHED.** Whenever a county board provides for a county department of health, the boards of health and health officers in all towns, cities and villages within such county shall be abolished, except as provided in subsection (4) of this section.

(4) **JURISDICTION OF COUNTY; LOCAL OPTION.** The jurisdiction of the county department of health shall extend to all towns, villages and cities within the county, other than those having a full time health department. Towns, cities and villages having full time health departments may by vote of their governing bodies determine to come under such jurisdiction.

(5) **OFFICES, APPROPRIATIONS.** Whenever a county board provides for a county department of health, it shall be empowered to provide office facilities and appropriate funds necessary for the maintenance of the work.

(6) **GIFTS; COUNTY CO-OPERATION.** The county board may receive gifts and donations for the purpose of carrying out the provisions of this section and may arrange with one or more adjoining counties to employ a county health officer jointly.



## STATE BOARD OF HEALTH

### Comment

#### DEPUTY STATE HEALTH OFFICERS

Functioning under Chapter 140.07, the state board of health has divided the state into districts and appointed a full time deputy state health officer for each district. These deputies are licensed practitioners of medicine and devote their entire time to the work.

There are 1,798 health units in the state, each unit having a board of health and health officer. The deputies are required to keep informed as to the work being done by local authorities in the various health units. Among other duties the deputies are to:

Assist local authorities in organizing their boards of health; assist local boards of health and health officers in enforcing quarantine and laws and rules of the state board of health; assist physicians and local authorities in promoting smallpox vaccination, diphtheria and goiter prevention programs; assist physicians in making diagnoses; make surveys of communicable disease outbreaks; require examination of water and milk supplies; assist local authorities in the abatement of nuisances, both public and private; act in an advisory capacity to public health committees in outlining and directing work of county nurses; make sanitary surveys, physical examinations, investigate the sanitary conditions of tourist camps and labor camps; investigate maternity homes and child boarding homes; assist the bureau of vital statistics in promoting efficient registration of marriages, births, and deaths; assist the bureau of communicable diseases in conducting epidemiological investigations following outbreaks of communicable diseases; assist the bureau of communicable diseases in checking up delinquents and in enforcing the other provisions of the venereal disease law; and to maintain an educational campaign in each district by public health talks.

#### BUREAU OF EDUCATION

The function of this division of the state board of health is to promote the general health and welfare through authoritative articles in the press and department publications, and in other approved channels of publicity. Various methods are employed, the scope of the work being indicated in the following:

This bureau supplies newspapers of the state with articles on health subjects, activities of the state health department and its cooperative relations with local health authorities and voluntary agencies. This range covers educational articles on disease prevention, periodic health examinations, and the activities of all divisions of the state board of health. The child health centers held monthly throughout the state are announced regularly in the local press by this bureau.

It prepares educational letters to promote the adoption of public water supply and sewage disposal systems in local communities, explaining the health and sanitary advantages of such facilities.

It assists in preparing and editing material for publications and reports of various divisions of this board. These include the Quarterly Bulletin of the State Board of Health; The Communicator (monthly), for board members and field and office workers; the Biennial Report of the board; special pamphlets on the control of specific diseases and on disease control in general, and the sanitary codes governing water supply and sewage disposal, plumbing and related services, hotel and restaurant and barber and beauty parlor sanitation.

Local health officers can serve their communities by doing similar educational work among their own people. In most communities they will find their local editors ready and even eager to give space to timely health topics, especially those of immediate personal and public concerns.



## Comment

## DEPARTMENTAL COOPERATION

The bureaus and divisions of the state board of health, inspectors and traveling employes cooperate with the following state departments:

1. State Department of Public Welfare.
2. Industrial Commission.
3. State Engineering Department.
4. State Department of Agriculture.
5. Public Service Commission.
6. Conservation Commission.
7. Department of Public Instruction.

The problem of avoiding what appears to be a duplication of inspections with a duplication of travel and other expense is a difficult one to solve and has been given careful study by the state board of health for a number of years. It has been our aim at all times to cooperate to the fullest extent with other state agencies and to assume, in so far as practicable, inspection responsibilities for other departments carrying on work closely related to the work which the legislature charges the state board of health with carrying out.

Much of the inspection service and assistance rendered by the board is of a technical character and could not be properly done by persons who have only a casual knowledge of the problems involved. Great care, therefore, must be exercised in making sure that the quality of the inspection service and assistance given the citizens of this state is not impaired through any attempt to delegate to any field officer or inspector duties and responsibilities which he is not qualified to perform.

## Court Decisions Relating to State Boards of Health

**Reasonable regulations are constitutional.** It is only where the power to regulate has been clearly abused that the courts will declare the manner of its exercise to be in violation of constitutional rights. (*Koeffler v. State* (Wis.); *State v. Starkley* (Me.))

**Orders of the board.** The board's determination of questions of discretion and judgment in the discharge of its duties is in the nature of a judicial decision and within the scope of the powers conferred, and for the purposes for which the determination is required to be made, it is conclusive. It is not to be impeached or set aside for error or mistake of judgment, nor to be reviewed in the light of new or additional facts. The officers or board to whom such determination is confided, and all those employed to carry it into effect or who may have occasion to act upon it, are protected by it, and may safely rely upon its validity for their defense. *Salem v. Eastern Ry. Co.*, 98 Mass. 431.

**Orders of a board of health must be reasonable.** An order of a state board of health, under authority of a general statute, which order requires a county to install a sewer system covering a specified area, must be reasonable and necessary, and if it can be shown that such order is unreasonable it will be held invalid by the courts. (*Welch v. Coglan* (Md.))

**System of quarantine.** The right of a state through its proper officers to place in confinement and to subject to regular medical treatment, those who are suffering from some contagious or infectious disease, on account of the danger to which the public would be exposed if they were permitted to go at large, is so free from doubt that it had rarely been questioned. *State v. Berg*, 70 Northwestern Reporter, 347.

## Attorney General's Opinions Relating to State Board of Health

**Enforcement of rules and regulations of the state board of health by law enforcement officials.** All health officers, local boards of health, constables, policemen, marshalls, and other officers and employes shall respect and enforce the rules and regulations of the state board of health in every particular affecting their respective localities.

**Closing schools.** The state board of health cannot condemn and close school buildings but it can pronounce the building unfit for school use and require that the building be repaired in such manner as to make it a safe place for school use.

## STATE BOARD OF HEALTH

**Photographing premises.** The state board of health and its deputy health officers are within their lawful rights and authority in photographing premises which they are authorized, by law, to inspect. Such photographs are a part of the information obtained by the board upon such inspections and investigations which the board is, by statute in its discretion, authorized to diffuse or publish provided that such publication be for the public purposes contemplated by the statute and provided further that the same be not in any respect either false or malicious.

**Penalties—how fixed.** Where a state law fixes the penalty for violation of a regulation of a municipal board of health, the board has no authority to provide a different penalty. (*New Orleans v. Stein* (La.))

**State Board of Health and well pollution.** The statutes empower the state board of health to require either landlord or tenant to remedy well pollution, or itself remedy such condition and have the cost thereof placed upon the tax roll against the property.



## CHAPTER 141.

## LOCAL HEALTH OFFICIALS.

141.01 Local boards of health.  
 141.02 City health commissioner.  
 141.03 Commission cities.  
 141.04 Joint health officers.

141.05 Local health nurses.  
 141.06 County nurses.  
 141.065 State aid for county nurses.  
 141.07 Dental clinics.

**141.01 Local boards of health.** (1) The board or council of every town, village and city, except cities of the first class, shall, within thirty days after each annual election, organize as a board of health or appoint wholly or partially from its own members, a suitable number of competent persons as a board of health for such town, village or city.

(2) In case the board or council fails so to act the state board of health may appoint persons to serve until a board of health has been regularly appointed and the necessary expense so incurred shall be charged to and paid out of the municipal treasury.

(3) Whenever any such health official shall fail to perform the duties of his office and assist the state board of health, the board or council, either upon its own initiative or upon recommendation of the state board of health, shall discharge such official and immediately select a new official.

(4) The board shall elect a chairman, a clerk, and a health officer, who shall be ex officio a member of such board and its executive officer. The health officer shall hold office for two years. If a vacancy occurs the board of health shall immediately fill the same. Such local board shall immediately report to the secretary of the state board of health the names, post-office addresses and occupations of the officers thereof, and any change therein.

(5) The board shall take such measures and make such rules and regulations as shall be most effectual for the preservation of the public health. All orders and regulations shall be published in some newspaper, if there be one published in the town, village or city; if there be none, they shall be posted in five public places therein.

(6) The board may appoint persons to aid them regulate their charges, and fix the salary of the health officer.

(7) The health officer under the direction of the deputy state health officer shall:

(a) Make an annual sanitary survey and maintain a continuous sanitary supervision over his territory.

(b) Make a sanitary inspection periodically of all school buildings and places of public assemblage, and report thereon to those responsible for the maintenance thereof.

(c) Promote the spread of information as to the causes, nature and prevention of prevalent diseases, and the preservation and improvement of health.

(d) Take steps necessary to secure prompt and full reports by physicians of communicable diseases, and prompt and full registration of births and deaths.

(e) Enforce the health law and the rules and regulations of the state board of health.

(f) Keep and deliver to his successor a record of all his official acts.

(8) All record books, quarantine cards and other material needed by the board, except such as is furnished by the state board of health, shall be supplied by the health officer at municipal expense, upon order of the board.

(9) The health officer and the clerk shall each, at least once a year, report to the state board their transactions and such facts as shall be required, upon blanks and according to instructions furnished, and shall also make special reports when required.

(10) The board of health of any city of the third class may establish a housing code, and violation thereof shall be punished by fine not exceeding three hundred dollars, or imprisonment not exceeding six months, or both.

(11) Physicians acting and receiving compensation as health officers in all cities and villages, except cities with a population of twenty-five thousand or more, may also hold office as city physicians.

(12) Health officers in cities having a population of less than twenty-five thousand and in villages and towns and hospitals in which they have an interest shall be permitted to give medical services or hospitalization, or both, to persons receiving poor relief or medical aid from such municipalities and receive compensation from them therefor. [1933 c. 308; 1939 c. 86]

**Note:** Office of city health officer is incompatible with that of member of city school board. 20 Atty. Gen. 462.

Offices of town clerk and town health of-

ficer are compatible. Health officer may act as railroad physician. He may be member of city park board. 24 Atty. Gen. 344.

As general rule executive officer of local

## 141.02 LOCAL HEALTH OFFICIALS

board of health should not enter and make investigation to ascertain whether law has been violated over objection of owner without order from court. 25 Atty. Gen. 643.

**141.02 City health commissioner.** (1) In cities under general charter the mayor shall, once in two years, unless otherwise provided by ordinance, nominate a regular licensed physician as health commissioner, who shall hold his office for two years. In all cities having a population of twenty-five thousand or more he shall not engage in the private practice of medicine or in any other conflicting occupation. He shall receive an annual salary to be fixed by the council or the board of health, if so provided by ordinance, and shall receive his actual and necessary expenses.

(2) The commissioner shall have the powers and duties provided for boards of health and local health officers and he shall provide such additional rules and regulations as shall be necessary for the preservation of health, to prevent the spread of communicable diseases, and to cause the removal of all objects detrimental to health and to enforce the health laws. All proposed rules and regulations shall be by him reported to the council, and if the council shall approve the same by a vote of a majority of its members, they shall have the force and effect of ordinances, including penalty for violation. He shall from time to time, recommend to the council such sanitary measures, to be executed by the city as shall seem to him necessary, and shall discharge such other duties, as may be imposed upon him by the council by ordinance or resolution.

(3) The police and all magistrates and other civil officers and all citizens shall aid, to the utmost of their power, the commissioner in the discharge of his duties, and on his requisition the chief of police shall serve or detail one or more policemen to serve the notices issued by the commissioner and to perform such other duties as he may require.

(4) The commissioner may appoint assistants subject to confirmation by the mayor, and they shall receive such compensation as the council may fix.

(5) (a) The commissioner of health of any city of the first class however incorporated, shall be one who holds the degree of doctor of public health, or is a graduate of a recognized medical college, and has had not less than one year of practical experience in public hygiene and sanitation.

(b) He shall appoint a deputy commissioner of health, who shall have the same qualifications. Such appointment shall not be subject to the civil service law applicable to the city.

(c) The deputy shall file the official oath and bond in such amount and with such sureties as the council may direct.

(d) The deputy may do all the acts required to be done by the commissioner, and he shall in case of vacancy or of the sickness or absence of the commissioner act in his place, and be subject to the same liabilities and penalties.

**Note:** Cities under general charter are subject to the provisions for nomination of health commissioner by mayor. 20 Atty. Gen. 359.

City-manager city may provide for agency different from city health commissioner for performance of powers and duties imposed

by this section. City manager has power to appoint administrative personnel. 20 Atty. Gen. 674.

Word "nominate," as used in 141.02 is synonymous with word "appoint." 21 Atty. Gen. 1.

**141.03 Commission cities.** (1) The council of any city, organized under chapter 63 of the statutes, may by ordinance create a board of health of not less than three nor more members than the number of councilmen or aldermen, provide for the manner of their election or appointment and fix the terms of office. Such ordinance may confer on such board, power to appoint a health officer for such city and to fix his term of office and compensation, subject to the approval of the council.

(2) Such board of health shall elect a president and secretary. The secretary shall keep full minutes of the proceedings. No member shall receive compensation unless so provided by the council.

(3) The council may by ordinance confer appropriate powers on such board, and may permit such board to delegate any of its powers to the health officer. Such board of health and any health officer appointed by it shall have all the powers and duties provided for boards of health and local health officers and commissioners.

(4) All rules and regulations prepared by such board shall be reported to the council and if the same shall be approved by a majority of the members such rules and regulations shall have the force of ordinances, including penalty for violation.

**141.04 Joint health officers.** Towns, villages and cities, occupying contiguous territory, may employ a full-time health officer or commissioner jointly. His salary, including necessary traveling expenses, shall be paid jointly as agreed upon or in proportion to population. He shall engage in no conflicting occupation.

**141.05 Local health nurses.** (1) The local board of health, or health officer may employ public health nurses within the limits of the appropriation made therefor by the



municipality. They shall work under the direction of the health officer and may be assigned to the investigation of infant mortality, the examination or visitation of children excluded from school, the investigation or visitation of cases of tuberculosis, the visitation of the sick who may be unable otherwise to secure adequate care, the instructions of members of households where sickness exists, or other duties calculated to improve the public health.

(2) Towns, villages and cities may employ public health nurses jointly, salary and other expenses to be paid jointly as agreed upon or in proportion to population.

**141.06 County nurses.** (1) The county health committee shall employ one or more county nurses, when so authorized by the county board and when provision is made by the county board for such nurse or nurses, whose duties shall be as follows: To act as health supervisor for schools not already having school inspection by a physician or nurse; to assist the superintendent of the poor; to instruct tuberculosis patients and others in preventing the spread of tuberculosis; to assist in reporting cases of tuberculosis and other communicable diseases; to assist in investigating cases of delinquency, neglect and dependency of juveniles, including state aid to dependent children, in counties not employing a probation officer; to assist in investigating cases of nonschool attendance in districts not employing a school attendance officer; to assist in investigating cases of infringement on child labor laws; to investigate cases of crippled children; to act as health instructor throughout the county, and to perform such other duties as may be assigned.

(2) The work of the county nurse shall be directed by a county health committee composed either of the chairman of the county board, the county superintendent of schools, a woman appointed by the county board, the judge of the juvenile court and the deputy state health officer or county physician for that county, or of the deputy health officer and not less than five members of the county board appointed by the chairman thereof.

(3) The county board shall fix the salary of the county nurse and make necessary appropriations to carry out the provisions of subsection (1); provided, that the county board may at any time discontinue the services of the county nurse at the expiration of her contract.

**Note:** County nurse must comply with requirements of 149.09. 24 Atty. Gen. 722.

**141.065 State aid for county nurses.** There shall be paid annually to each county in which one or more certified county public health nurses are employed pursuant to section 141.06, the sum of one thousand dollars. The county clerk shall certify to the state board of health upon request the number of county nurses employed by the county and the period of their employment. [1935 c. 556]

**141.07 Dental clinics.** Any county may establish and maintain a dental clinic or clinics to be operated under rules adopted by the county health committee named under section 141.06. Monthly reports shall be made by the director of said clinic or clinics pursuant to subsection (3) of section 149.09 on blanks prescribed by the state board of health.

## LOCAL HEALTH OFFICIALS

### Comment

#### ORGANIZATION AND DUTIES OF LOCAL BOARDS OF HEALTH

**Organization.** The law requires that the board or council of every town, village or city, except cities of the first class, shall, within thirty days after each annual election, organize as a board of health or appoint wholly or partially from its own members, a suitable number of competent persons as a board of health for such town, village or city. After the board of health is appointed it must select its own chairman and clerk. The town or village board only makes appointments to the board of health and does not designate their official positions on the board of health. The members of the board of health hold office for one year.

(For appointment of city health commissioner in cities operating under general charter, see page 12.)

**Records.** A board of health, though it may be composed wholly of the same persons who make up the town board or village board, acts in a different and independent capacity. It should, therefore, hold separate meetings and keep separate records, which should show clearly all facts connected with its organization, its appointment of health officers and other assistants and report of their selection to the state board of health, its official orders and resolutions, and the minutes of its meetings. Such records may be of legal importance and should be accurately kept by the clerk of the board. Every health board is, therefore, earnestly advised to provide suitable and well-bound volumes for their records. If there be recorded in these volumes the history of all epidemics of contagious diseases, their origin, when this can be ascertained, and the measures adopted for their control, such records will have permanent value. These records, and all other matter, such as reports, printed matter and blanks furnished by the State Board, etc., should be carefully preserved and turned over to the successor in office.

**Appointment of health officer.** Immediately after the board of health is organized it must appoint a health officer, if the term of the health officer has expired. The health officer holds office for two years and until his successor has been appointed. The town board does not appoint the health officer. The clerk shall report the name and address of the health officer to the state board of health. The appointive board shall fill all vacancies that may occur and report to the state board of health the names and addresses of any new members appointed. When practicable the health officer should be a physician. When the health officer is not a physician the local board of health should adopt a resolution authorizing the health officer to employ a physician whenever necessary.

**Compensation.** There is no more important function than that which is performed by a well qualified health officer; therefore, the health officer should be paid a reasonable compensation for his services.

The health officer is a member ex officio of the board of health, and should always meet with the board, and this service being compulsory in a measure, and rendered at the sacrifice probably of valuable time, should be taken into consideration when his compensation is fixed. This compensation is left by the law to each individual board of health, but it should in all cases be as liberal as the circumstances of the town will permit. Boards of health have a right to expect faithful service and valuable advice from their health and executive officers, and they have the right to require special study of all local sanitary questions, but they have no right to require or expect their service or advice without rendering an equivalent fairly proportionate to its worth to the community, and a wise liberality in this respect will ultimately prove the best economy. At the beginning of his term of office the health officer should arrange with his board of health for suitable compensation.

**Reason for taking oath of office.** In order that the orders issued by a health officer may be legal and binding it is necessary that the oath of office be taken. Unless this is done there is a strong probability of having the local public health administration seriously hampered.

**When the oath of office should be taken.** The oath of office should be taken by the health officer prior to assuming office. Should he serve continuously thereafter it is necessary to take the oath of office at the beginning of each term. Also, should there be an interruption in his service, during which period another person serves as health officer, a new oath of office must be taken before again assuming the position.



## LOCAL HEALTH OFFICIALS

**Where the oath of office should be filed.** The oath of office must be filed with the city, village or town clerk of the territory in which the health officer is serving.

**Who may administer the oath of office.** "An oath...may be taken before any judge, court commissioner, . . . clerk of a court of record, notary public, town clerk, village clerk, city clerk, justice of the peace, police justice or county clerk, within the territory in which such officer is authorized to act; . . . (section 19).

### FORM OF OATH OF OFFICE

STATE OF WISCONSIN, }  
County of.....}ss.

The undersigned, who has been elected (or appointed) to the office of health officer, but has not yet entered upon the duties thereof, swears (or affirms) that he will support the constitution of the United States and the constitution of the state of Wisconsin, and will faithfully discharge the duties of said office to the best of his ability.

Subscribed and sworn to before me this.....day of....., 19....

.....,  
(Signature) Health Officer.

.....  
Notary.

**Authority of local boards of health.** Section 141.01-5 provides that the board of health shall take such measures and make such rules and regulations as shall be most effectual for the preservation of the public health. All orders and regulations shall be published in some newspaper, if there be one published in the town, village or city; if there be none, they shall be posted in five public places therein. Every local board of health therefore has the authority to adopt additional rules or regulations in addition to those already established by the state board of health. They have full authority to adopt rules to meet any emergency or condition that may arise to endanger the public health. Rules must be more stringent and never less stringent than state board of health rules.

**Limitation of powers.** It may be said that these powers, when exercised solely and impartially in the interests of the public health, and not for any private purposes or ends, are as ample as legislative authority can confer. The great importance of the object for which health boards are constituted entitles them to such power, and entitles them also to the most liberal construction on the part of the courts, of all the laws under which they work.

In general, therefore, whatever a legally organized board of health may find it needful to do, providing the act is reasonable, whether for the prevention or suppression of disease, or for the enforcement of its own rules made in the interests of the public health and properly published, or for the enforcement of statutory provisions for the same end, such a board has the power to do.

The state board of health desires to call special attention to the fact that, while all the powers referred to rest with local boards of health, the state board will always be glad to cooperate with local boards to the full extent of its authority, by advice in any emergency, by personal visits of its officers, whenever such visits may be necessary, by the free distribution of circulars on the management of contagious diseases, and by answering as fully as possible all communications at any time, so far as its means will permit.

**Nuisances.** As a considerable part of the work of the health officer and board of health is related to nuisances the health officer should familiarize himself with pages 86-104 of this pamphlet.

**Investigations by health officer.** Under the law, and rules and regulations promulgated by the state board of health, a health officer is especially charged with the duty of making an investigation of all the circumstances attendant upon the appearance of any dangerous communicable disease, and at all times he is to take such measures for the prevention and control of these diseases as in his judgment may be needful and proper.

## LOCAL HEALTH OFFICIALS

If the health officer be a physician his duty of investigating the causes of and circumstances attendant upon the appearance of any disease, must not be construed as having any authority to interfere with the rights of the regular medical attendant on the case, and great caution must be exercised lest a conflict be brought about in the performance of such duty. In making an investigation there should be the most cordial cooperation and understanding between the health officer and medical attendant. Much of the benefit to be derived from this provision of law will necessarily depend upon the degree of tact and wisdom exercised by the health officer.

A full report of the result of the investigations of health officers and of the action taken by them should be made, both to the local board of health and to the state board of health. If all this be intelligently, promptly and faithfully done, and especially if the means known to be effectual for the prevention of contagious disease are well used there can be no doubt that many costly epidemics may be prevented and many lives saved.

**Emergencies.** As emergencies may occur at any time in which prompt action may be highly necessary, and when it may not be convenient, or even possible, to assemble the entire board of health for the purpose of taking action, it is recommended that as soon as the board has been fully organized a general resolution be adopted and recorded on the minutes, authorizing and instructing the health officer to do anything, under such circumstances, that may be necessary and proper; such a resolution will clothe him with full powers to act in cases of emergency but the board should be called together in every such instance as soon as practicable, and if the health officer shall have acted wisely, he should be fully and cordially supported. It would be wise, also, especially whenever the health officer is a medical man, having the full confidence of the board, to adopt and record a resolution authorizing him to put and maintain the town, village or city in good sanitary condition.

**Summary action.** In the event of a serious or dangerous condition arising which demands prompt action no formal publication of notice of rules is needful. In such a case proper notice having been given to the offender in writing with an order for the removal or abatement of the condition or nuisance within such reasonable time as the local health board may designate or the circumstances will permit, the board may, if such order be disregarded, proceed formally to abate the nuisance without regard as to whether any formal regulations covering the specified condition have been published or not. See law on nuisances page 86.

**Printed forms for report.** Section 141.01 of the statutes provides that all record books, quarantine cards, cards for placarding certain diseases and other material needed by the local board of health, except such as is furnished by the state board of health, must be paid for at public expense upon the order of the local board of health. The blanks to be used by physicians and other persons in reporting cases of dangerous communicable disease to the local health officer are furnished by the state board of health to the local health officers for distribution among the physicians and other persons residing in the district who are required to make these reports. These cards are of the general form recommended by the United States public health service. Quarantine cards and placards for the placardable diseases may be printed locally but to be legal must have the correct wording. The state board of health has quarantine signal and placards for sale at cost.

## Court Decisions Relating to Local Boards of Health

**Delegation of legislative power.** Statutes conferring upon boards of health the power to adopt ordinances, rules, and regulations necessary to advance the public health are not unconstitutional as being a delegation of legislative power which the constitution gives to the legislature only. (*Hawkins v. Hoys* (Miss.); *People v. Tait* (Ill.))

**Physical examination of school children.** The supreme court of South Dakota decided that a school board has the power to require a report by a physician showing the physical condition of a child as a prerequisite to the admission of the child to school. The board of education of the city of Aberdeen, S. Dak., adopted a resolution requiring a report by a physician showing certain data regarding the physical condition of a child before that child could be admitted to the school. The necessary examination might be made by the school physician or by a physician employed by the parents. A parent refused to permit his child to undergo the examination, and claimed the right to have his child educated in the public schools although no physician's report had been made. The



## LOCAL HEALTH OFFICIALS

court held that the resolution was reasonable and that it was within the power of the school board. (*Streich v. Board of Education of Aberdeen.*)

**Police powers.** The police power is but another name for that authority which resides in every sovereignty to pass all laws for the internal regulation and government of the state, and necessary for the public welfare. It is inherent and necessary power, essential to the very existence of civil society, and the safeguard of the inhabitants of the state against disorder, disease, poverty and crime.

**Note—Power of Health Officer to Sue.** A town health officer is not empowered by this section to maintain an action in his official capacity to restrain a city for maintaining a hospital for contagious diseases in his town, on the ground that it is detrimental to the health of the inhabitants, though he is directed to institute it by the board of health. If such an action is maintainable at all, it must be brought in the name of the town; whether it can be brought without authority from the electors, not determined. (*Buckstaff v. Oshkosh*, 92 Wis. 520.)

**Power to adopt ordinances on the same subject granted to two different bodies.** Different provisions of a statute granted authority to the city board of health and to the city council to enact ordinances covering the same subject matter. The court held that an ordinance adopted by the board of health was not invalid because of the conflict of authority, the city council not having adopted any conflicting ordinance. (*New Orleans v. Sanford (La.)*)

**Proof of the population of a city.** The fact that a city has more than a certain number of inhabitants can be shown in the court, for the purpose of determining the jurisdiction of a board of health, only by an official census. (*Commissioner of Health v. Bunzel (Mass.)*)

**Reasonable regulations are constitutional.** It is only where the power to regulate has been clearly abused that the courts will declare the manner of its exercise to be in violation of constitutional rights. (*Koeffler v. State (Wis.)*; *State v. Starkey (Me.)*)

**Requirements to make regulations effective.** Rules and regulations of boards of health must be in writing, adopted in an official manner and duly entered of record. (*People v. Tait (Ill.)*)

**Right to regulate sale of milk.** Milk is so generally used and the effect of its impurity or unwholesomeness is so serious that the regulation of its sale is an imperative duty which has been universally recognized. This regulation in minute detail is essential, and extends from the health and keeping of the cows which produce the milk through all the processes of transportation, preservation, and delivery to the consumer. (*Koy v. Chicago (Ill.)*)

**Selection of health officer by lot.** A city board of health was equally divided in choosing a health officer. They decided the matter by drawing lots, but the successful candidate was never formally elected. The Wisconsin supreme court decided that the selection by lot conferred no right to the office. (*Meany v. Staehle*)

**Compensation of county physician.** A county physician who receives \$5 per month for certain services regularly rendered is entitled to additional compensation for unusual services performed by direction of the chairman of the county board of health in suppressing an epidemic of smallpox. (*Plumb v. York County (Nebr.)*)

## Attorney General's Opinions Relating to Local Boards of Health

**City manager may appoint health officer.** Under the city manager form of government the city manager has the power to appoint a health officer and may remove such officer elected by the board of health organized under a former system of city government. The health officer appointed by the city manager can legally exercise all the powers of a health officer.

**Compensation of the clerk of board of health.** The clerk of a local board of health shall perform the duties of the office without compensation.

**Election of local health officers.** The local health officer must be elected by the local board of health, not by the town or village board.

## LOCAL HEALTH OFFICIALS

**Enforcement of rules and regulations of the State Board of Health by law enforcement officials.** All health officers, local boards of health, constables, policemen, marshals and other officers and employes shall respect and enforce the rules and regulations of the state board of health in every particular affecting their respective localities.

**Term of office of health officer.** Whenever a health officer has been duly elected or appointed in the manner provided by law, he holds such office for two years or until his successor has been elected and qualifies.

**Term of health officer.** The statute requiring that health officers, when appointed, shall serve for two years and until their successors have been appointed and qualify comes within that class of laws designed to constitute a uniform rule for all cities, towns and villages.

**Physicians can be health officer for more than one health unit.** A physician can legally qualify as health officer of two adjoining towns although he lives in another village.

**Health officer not required to be resident.** A health officer is not required to be a resident of the town for which he acts.

**Municipalities responsible for expense incurred by health department.** In all cases where the board of health of a town, city or village is required to act in order to protect the public health, unless some special provision is made by law, the expense incurred must be paid by the town, village or city.

**Town board may finance inoculations.** The town board may appropriate money to the local board of health to be used in paying cost of inoculating people of town against communicable disease.

**Reasonable milk ordinance.** An ordinance providing that all persons selling milk within the city should first obtain a license; that all cows should be kept in stables under sanitary conditions; that the milk sold should be of certain reasonable standard of quality; and that the cows should be free from tuberculosis and other diseases is reasonable.

**Funds for special purpose cannot be diverted.** Irrespective of special statutory provision, a fund raised by a city for a special purpose is a trust fund and cannot lawfully be diverted from the purpose for which it was raised.

**Local health boards may adopt ordinances protecting water supplies.** The local board of health has a lawful right to pass an ordinance making it unlawful for any person to locate, erect, maintain any barn, stable, or privy within 50 feet of any well. The reasonableness of such an ordinance is for the court to determine.

**In cities under general charter health officer appointed under section 141.02.** In cities under general charter the health officer is appointed by Mayor or by terms of ordinance.

**Care of indigents.** Physicians acting as health officers cannot charge town officials for professional services rendered indigent people suffering from contagious diseases unless previously authorized to render such service by the proper authorities.

**Health officer and conflicting occupation.** A health officer may also hold simultaneously the office of town clerk, or railroad physician, or member of the city park board. There is no conflict of interest in these offices. A health officer cannot simultaneously be a member of the school board.

**Health officer may be a member of village board.** Office of village health officer and member of village board not incompatible. Town treasurer may hold office as health officer but can not draw two salaries.

**Township officials responsible for expense of health officer attending state conference of health officers.** A town health officer whose expenses in attending a state conference of health officers having been certified to by the secretary of the state board of health, is entitled to reimbursement by the town. In case of refusal of town board to draw order therefor on town treasurer, the health officer may proceed by action against the town or by mandamus against the town board.



## CHAPTER 69.

## REGISTRATION OF MARRIAGES, BIRTHS AND DEATHS.

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**69.01 Vital statistics; bureau created.** For the complete and proper registration of births, deaths, marriages, accidents and divorces, for legal, sanitary and statistical purposes, there shall be and hereby is created and established a "State Bureau of Vital Statistics."

**69.02 Under state board of health.** This department shall be under the immediate supervision and direction of the state board of health. The secretary of the state board of health shall be designated as the state registrar of vital statistics, and shall be charged with the uniform and thorough enforcement of the law throughout the state.

**69.03 Rules and regulations.** The state board of health is hereby empowered to make, promulgate and enforce such rules and regulations as may be considered necessary to carry out the provisions of sections 69.01 to 69.59, inclusive, and shall from time to time recommend any additional forms and amendments that may be necessary for this purpose.

**69.04 Statistician and assistants.** The state board of health shall provide a competent vital statistician to assist the state registrar and such clerical and other assistants as may be necessary for the purposes of sections 69.01 to 69.59, inclusive, and shall fix the compensation of such persons within the amount appropriated by the legislature.

**69.05 Districts and local registrars.** For the purposes of this chapter, the state shall be divided into registration districts as follows: Each city, incorporated village and town shall constitute a primary registration district. The health officer of the board of health in cities and the clerk of each town and incorporated village shall be the local registrar of vital statistics.

**69.06 Blank forms.** The state registrar shall cause to be prepared blank forms of certificates of births, deaths, marriages, accidents, divorces and of burial permits, corresponding to the requirements of sections 69.01 to 69.59, inclusive, which forms shall be printed and supplied in the same manner as the blanks and stationery for the use of the several offices of the state government.

## 69.07 VITAL STATISTICS

**69.07 State registrar's duties.** (1) The state registrar shall prepare and issue such detailed instructions as may be required to secure the uniform observance of its provisions and the maintenance of a perfect system of registration, and no blanks shall be used other than those supplied by the state registrar.

(2) He shall carefully examine the certificates received from the local registrars and if any such are incomplete or unsatisfactory he shall require such further information as may be necessary to make the record complete.

(3) He shall further arrange, bind, and permanently preserve the certificates in a systematic manner and prepare and maintain a comprehensive and continuous card index of all births, deaths, marriages and divorces registered.

(4) He shall also prepare and publish biennially such of the vital facts appearing on the certificates of births, deaths, marriages, accidents and divorces as shall be determined by the state board of health to be necessary and useful.

(5) He shall inform all registrars what diseases as decided by the state board of health are to be considered infectious, contagious or communicable and dangerous to the public health, so that when deaths occur from such diseases proper precautions may be taken to prevent their spread.

(6) He shall at least once each year tabulate and classify all cases of children born with deformity or physical defects in the state since the preceding tabulation or classification, and shall preserve and keep the same on file in his office. Such tabulations or classifications shall be included in the biennial report of the state board of health.

**69.08 State registrar's powers; prosecuting attorneys.** (1) The state registrar is hereby charged with the thorough and efficient execution of the provisions of sections 69.01 to 69.59, inclusive, in every part of the state, and with supervisory power over local registrars to the end that all of its requirements shall be uniformly complied with.

(2) He shall have authority to investigate cases of irregularity or violations of the law, personally or by an accredited representative, and all registrars shall aid him, upon request, in such investigations.

(3) When he shall deem it necessary, he shall report cases of violation of any of the provisions of sections 69.01 to 69.59, inclusive, to the prosecuting attorney of the proper county, with a statement of the facts and circumstances, and when any such case is reported to him by the state registrar he shall forthwith initiate and promptly follow up the necessary court proceedings against the parties responsible for the alleged violations of law, and upon request of the state registrar the attorney-general shall likewise assist in the enforcement of the provisions of sections 69.01 to 69.59, inclusive.

**Note:** State board of health and state registrar of vital statistics have no investigational duty under this section, where A is divorced from B November 17 and August 15 of following year child is born to A and birth certificate shows B to be father thereof,

although B claims otherwise. State registrar may not determine judicial questions of disputed parentage of child or change or alter birth certificate to conform to what upon investigation he believes to be truth in matter. 27 Atty. Gen. 759.

**69.09 Central office to collect statistics at local expense, when.** In case it is found impossible to obtain through the local registrars complete reports of all births, deaths, marriages and accidents occurring in cities, incorporated villages or towns, then the state board of health may cause these records to be properly collected and the necessary expenses incurred by so doing shall be charged to and paid for by the city, incorporated village or town wherein this expense is necessarily incurred.

**69.10 Itemize expenses.** The state registrar or other person appointed by him to collect such information shall file with the clerk of such city, incorporated village or town, an itemized statement of all expenses incurred, which statement shall serve as prima facie evidence of the claim against said city, incorporated village or town.

**69.11 Certified copies.** (1) The state registrar, register of deeds, or the local registrar of any city or village shall, upon request, furnish any applicant a certified copy of a record of any birth, death, marriage or divorce and when properly certified to shall be prima facie evidence in all courts and all places of the facts stated therein.

(2) The state registrar and any other officials authorized to issue birth certificates, may issue a short form certificate in such form as shall be prescribed by the state bureau of vital statistics. [1939 c. 524]

**Note:** Under this section the death certificate is admissible as a public record constituting prima facie evidence of the facts stated therein. *Milwaukee E. R. & L. Co. v. Industrial Commission*, 222 W 111, 267 NW 62.

**69.12 Fees.** For such certified copy he shall be entitled to a fee of fifty cents to be paid by the applicant; the state registrar shall keep and prepare accurate accounts of all fees received by him and turn same over to the state treasurer at the close of each fiscal year.



**69.13 Local statistics.** It shall be the duty of the health officer of every board of health of cities in the state and in towns and incorporated villages, of the town and village clerk to collect certificates of births, deaths, marriages and accidents that occur in the city, incorporated village or town in which he is an officer.

**69.14 Registrar's deputy, local.** As local registrar, said health officer or clerk shall, upon assuming the duties of his office, appoint a deputy whose duty it shall be to act in his stead in case of his absence, illness or disability. Said deputy shall accept such appointment in writing and shall be subject to all rules and regulations governing the actions of the local registrars.

**69.15 Subregistrars, duties.** The local registrar or his deputy, in each city, incorporated village, and township shall serve as subregistrar for every other local registrar in the state for the purpose of receiving death certificates and issuing burial permits. The subregistrar shall sign his name with the date on which the certificate of death was filed with him, in the space beneath the place for the signature of the local registrar, and forward the certificate at once to the registrar of the district where the death occurred. All subregistrars who sign certificates of death and forward them at once to the proper local registrar, shall receive a fee of ten cents for each certificate; to be paid by the treasurer of the county, upon the certification of the state registrar. If any certificate of death is incomplete or unsatisfactory, it shall be the duty of the subregistrar to withhold issuing the burial or removal permit to the undertaker, until the necessary information is obtained, or a satisfactory record furnished. Each subregistrar shall be liable to the same penalty for neglect of duty as the local registrar.

**69.16 Enforcement, local.** The local registrars shall enforce the provisions of sections 69.01 to 69.59, inclusive, in their respective districts, under the supervision and direction of the state registrar; and shall make an immediate report to the state registrar of any violations of said sections coming to their notice by observation or upon complaint.

**69.17 Registration; physicians; midwives; undertakers.** Each physician, midwife and undertaker shall before acting or practicing as such in any district register his or her name, address, and occupation with the local registrar of the district in which he or she resides or may thereafter establish a residence and shall thereupon be supplied by the local registrar with a copy of this chapter, together with such rules and regulations as may be prepared by the state registrar relative to its enforcement.

**69.18 Local registrar; annual report, fees, blanks.** Within thirty days after the close of each calendar year, each local registrar shall make a return to the state registrar of all physicians and midwives who have been registered in his district during the whole or any part of the preceding calendar year, and in certifying names for payment as hereinafter provided, the state registrar shall not include any physicians or midwives who have not complied with the requirements of this section. No fee or other compensation shall be charged by local registrars to physicians, midwives or undertakers for registering their names under the foregoing section or making returns thereof to the state registrar. The local registrar shall supply blank forms of certificates to such persons as require them, and shall carefully examine each certificate of birth, death, marriage or accident, when presented for record to see that it has been made out in accordance with the provisions of sections 69.01 to 69.59, inclusive, and the instructions of the state registrar.

**69.19 Burial and removal permits.** If any certificate of death is incomplete or unsatisfactory, it shall be the local registrar's duty to call attention to the defects in the return and to withhold issuing the burial or removal permit to the undertaker, until the necessary information is obtained or a satisfactory record furnished.

**69.20 Deaths from dangerous diseases.** In case the death occurred from some disease that is held by the state board of health to be infectious, contagious or communicable and dangerous to the public health, no permit for the removal or other disposition of the body shall be granted by the registrar except under such conditions as may be prescribed by the state board of health.

**69.21 Birth certificates.** If a certificate of birth is incomplete the local registrar shall immediately notify the parents of the child and require them to supply the missing items if they can be obtained.

**69.22 Certificates; numbering.** The local registrar shall number and date consecutively the certificates of births, deaths and marriages as he receives them beginning with "number one" in each calendar year and sign his name as such registrar thereto.

**69.23 Duplicate records.** The local registrar in all cities and incorporated villages shall also make and keep a complete and accurate copy of each birth, death, and marriage certificate received by him, upon a form identical with the original certificate to be filed and permanently preserved in his office, as the local record, of such birth, death or marriage, in such manner as directed by the state registrar.

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**69.24 Original certificates; transmittal; exception.** The local registrar shall, on or before the seventh day of each month, transmit to the state registrar all original certificates of births, deaths, marriages, or accidents received by him, provided that in cities of the first class original certificates may be retained by the local health authorities and duplicates of the original certificates may be forwarded by the local registrar to the state registrar.

**69.25 Nothing to report.** If no births, deaths, marriages or accidents occurred in any month, the local registrar shall on or before the seventh day of the following month, report that fact to the state registrar in such manner as the state registrar shall direct.

**69.26 Birth certificates by physician or midwife.** The physician or midwife in attendance when any birth occurs shall file a certificate of birth, properly and completely filled out, giving all the particulars required by sections 69.01 to 69.59, inclusive, with the local registrar of vital statistics of the district in which the birth occurred within five days after the date of birth. The certificates for illegitimate births shall be kept in a separate file and shall be subject to public inspection only upon court order, except for obtaining proof of heirship. A copy of an illegitimate birth record shall be furnished only upon the order of any county judge or judge of the juvenile court. All bills or charges for professional services rendered by the physician or midwife in attendance upon a birth shall be unlawful, if the birth certificate, properly filled out, is not reported as herein provided. [1935 c. 41]

**69.27 Nonprofessional birth certificate; foundlings reported.** (1) If there be no attending physician or midwife, then the father of the child, householder or owner of the premises, manager or superintendent of a public or private institution in which the birth occurred shall file a satisfactory certificate of birth with the local registrar within five days.

(2) It shall be the duty of anyone finding an unknown child, to immediately report that fact to the local registrar of vital statistics of the town, village or city where the child was found; such report shall show the sex and color of the child, the date and place of finding the child, and the name of the person or institution in charge of such child. The town, village or city in which the child is found shall be known as the place of legal birth and the date of birth shall be stated by the person in charge of the child as nearly as can be determined and the date so given shall be known as the legal date of birth. The person or superintendent of the institution with whom the child is placed for care shall give the child a name and shall be responsible for filling out as completely as possible the regular form of birth certificate and filing it with the local registrar where the child was found, who shall make a copy for the register of deeds, a copy for the local record, if required, and then forward the original certificate to the state board of health with his next monthly report. If the child should later be identified and a certificate of birth be found or obtained, the record provided for by this section shall be destroyed. When foundlings or other children for whom it is impossible to provide a regular form of birth certificate are adopted, it shall be lawful for the adoptive parents to fill out and sign a birth record, giving their names as the adoptive parents. [1933 c. 110]

**69.28 Standard birth certificates.** The certificate of birth shall contain such items as the state board of health may determine are necessary and shall agree in the main with the standard form recommended by the United States census bureau. [1931 c. 352 s. 1; 1937 c. 205]

**69.29 Report of congenital deformities.** (1) Within twenty-four hours after the birth of any child with a deformity or physical defect, the attending physician or midwife, or if there is no physician or midwife in attendance then the parent or guardian of the child, or other responsible person, shall, in addition to and separate from the notice thereof required in the birth certificate, directly notify the state board of health of such deformity or defect and shall explain as fully as possible the exact nature thereof. Said physician or midwife, or parent, guardian, or other responsible person may, in addition to the notice and explanation herein required make such suggestions or recommendations as to the care, treatment or correction of such deformed or defective person, or give such information with reference thereto as he may deem necessary or helpful.

(2) The reports, notices or explanations of all cases of congenital deformity or physical defect provided for by this section shall be treated as confidential to the extent that the name or address of the deformed or defective person shall not be published by any newspaper, magazine or other paper or publication of general or special circulation.

(3) The secretary of the state board of health shall, immediately upon hearing of any case of congenital deformity or physical defect give to the crippled children division, state department of public instruction, the name and address and such other information as may be helpful in the follow-up care program of such children. [1931 c. 79 s. 12; 1937 c. 136]



**69.30 Child's name; supplementary report.** When any certificate of birth of a living child is presented without a statement of the given name, then the local registrar shall make out and deliver to the parents of the child a special blank for the supplemental report of the given name of the child, which shall be filled out as directed and returned to the registrar as soon as the child shall be named. The original certificate of birth shall not be considered complete until the supplemental report is filed or the blank returned with the statement "died unnamed."

**69.31 All dispositions of dead; permit requisite.** The body of any person whose death occurs in this state shall not be interred, deposited in a vault or tomb, cremated, or otherwise disposed of, until a permit for burial or removal shall have been properly issued by a local registrar, deputy or subregistrar, and no such burial or removal permit shall be issued by any registrar, deputy or subregistrar until a complete and satisfactory certificate and return of the death has been filed with him as hereinafter provided. [1933 c. 109]

**69.32 Stillbirths.** Stillborn children shall be registered as births and also as deaths, and a certificate of both the birth and the death shall be filed with the local registrar in the usual form and manner, the certificate of birth to contain, in place of the name of the child, the word "stillbirth." The medical certificate of the cause of death shall be signed by the attending physician and shall state the cause of death as "stillborn" with the cause of the stillbirth, if known; whether a premature birth; and, if born prematurely, the period of uterogestation in months, if known; and a burial or removal permit in usual form shall be required.

**69.33 Standard death certificates.** The certificate of death shall be of the standard form recommended by the United States census bureau and shall contain the following items:

(1) Place of death, including state, county, township, city or incorporated village. If a city, the ward, street and house number. If in a hospital or other institution, the name of the same to be given instead of the street and house number.

(2) Full name of decedent. If an unnamed child, the surname preceded by "unnamed."

(3) Sex.

(4) Color, or race, as white, black (negro or negro descent), Indian, Chinese, Japanese or other.

(5) Conjugal condition, as single, married, widowed or divorced.

(6) Date of birth, including the year, month and day.

(7) Age, in years, months and days.

(8) Place of birth; state or foreign country.

(9) Name of father.

(10) Birthplace of father, state or foreign country.

(11) Maiden name of mother.

(12) Birthplace of mother, state or foreign country.

(13) Occupation, the occupation to be reported of any person who had any remunerative employment, women as well as men.

(14) Signature and address of informant.

(15) Date of death, including the year, month and day.

(16) Statement of medical attendance of decedent, fact and time of death, including the time last seen alive.

(17) Cause of death, including the primary and immediate causes, and contributory cause or complications, if any, and the duration of each.

(18) Signature and address of physician or official making the medical certificate.

(19) Special information concerning deaths in hospitals and institutions and of persons dying away from home, including the former and usual residence, length of time at place of death, and place where the disease was probably contracted.

(20) Place of burial or removal.

(21) Date of burial or removal.

(22) Signature and address of undertaker.

(23) Official signature of registrar, with date when certificate was filed and registered number.

(24) Statement whether or not the deceased served in the military or naval forces of the United States.

**69.34 Death particulars; authentication.** The personal and statistical particulars (subsections (1) to (13) of section 69.33) shall be authenticated by the signature of the informant, who may be any competent person acquainted with the facts.

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**69.35 Undertaker's signature.** The statement of facts relating to the disposition of the body shall be signed by the undertaker or person acting as such.

**69.36 Physician's certificate; causes of death.** (1) The medical certificate shall be made and signed by the physician, if any, last in attendance on the deceased, who shall specify the time in attendance, the time he last saw the deceased alive, and the hour of the day at which death occurred.

(2) He shall further state the cause of death so as to show the course of disease or sequence of causes resulting in death, giving the primary and immediate causes, and also the contributory causes, if any, and the duration of each.

(3) Indefinite and unsatisfactory terms indicating only symptoms of disease or conditions resulting from diseases will not be held sufficient for issuing a burial or removal permit and any certificate containing only such terms, as defined by the state registrar, shall be returned to the physician for correction and definition.

(4) Causes of death which may be the result of either disease or violence shall be carefully defined, and, if from violence, its nature shall be stated, and whether accidental, suicidal, or homicidal.

(5) In case of deaths in hospitals, institutions, or away from home, the physician shall furnish the information required under this head (subsection (19) of section 69.33), and shall state where, in his opinion, the disease was contracted.

(6) And the cause of death and all other facts required shall in all cases be stated in accordance with the rules and regulations of the state registrar.

**69.37 Death without physician.** In case of death without the attendance of a physician, or if the certificate of the attending physician cannot be obtained early enough for the purpose, any physician employed for the purpose shall upon the request of the local registrar or his deputy, make such certificate as is required of the attending physician.

**69.38 Local registrar to report death, when.** When a physician cannot be obtained early enough and only in such case, the local registrar is authorized to insert the facts relative to the cause of death, from the statements of relatives or other competent persons, and the permit for burial shall be issued upon such information.

**69.39 Coroner's certificate.** Any coroner whose duty it is to hold an inquest on the body of any deceased person, and to make the certificate of death required for a burial permit, shall state in his certificate the nature of the disease, or the manner of death, and if from external causes or violence whether "probably" accidental, suicidal or homicidal, as determined by the inquest; and shall, in either case, furnish such information as may be required by the state registrar to classify the death.

**69.40 Undertaker's duties relative to certificate and permit.** (1) The undertaker, or person acting as undertaker, shall be responsible for obtaining and filing the certificate of death with the registrar and securing a burial or removal permit prior to any disposition of the body.

(2) He shall obtain the personal and statistical particulars required from the person best qualified to supply them over the signature and address of his informant. He shall then present the certificate to the attending physician or other person authorized by law to fill out the medical certificate of the cause of death and other particulars necessary to complete the record, as specified in sections 69.33 to 69.39, inclusive. He shall then state the facts required relative to the date and place of burial over his signature and with his address, and present the completed certificate to the registrar who shall then issue a burial or removal permit.

(3) The undertaker shall deliver the burial permit to the sexton or person in charge of the place of burial before interring the body, or attach the removal permit to the box containing the corpse, when shipped by any transportation company, to accompany the same to destination.

**69.41 Burial within district; wording of permit.** If the interment or other disposition of the body is to be made in the registration district in which the death occurred, the wording of the burial permit may be limited to a statement by the registrar and over his signature, that a satisfactory certificate of death having been filed with him as required by law, permission is granted to inter, remove, or otherwise dispose of the body of the deceased, stating the name, age, sex, cause of death and other necessary details upon the form prescribed by the state registrar.

**69.42 Burial elsewhere; certificate copy.** In case the interment or other disposition of the body is to be made in some registration district other than that in which death occurred, a complete copy of the certificate of death issued by the authorities where the death occurred or the certificate of removal issued when shipped by any transportation company, shall be accepted as a burial permit for the interment of the body.



**69.43 Sexton's duty.** No sexton or person in charge of any premises in which interments or cremations are made shall inter or cremate or permit the interment or cremation of any body unless it is accompanied by a burial permit as herein provided.

**69.44 Sexton's indorsement and return.** Each sexton or person in charge of any burial grounds shall indorse upon the permit the date of the interment, over his signature, and shall retain all such permits as the part of his record.

**69.45 Sexton's records.** He shall also keep a record of all interments made in the premises under his charge, stating the name of the deceased person, place of death, date of burial, and name and address of the undertaker.

**69.46 County clerk's or judge's marriage records.** The county clerk, county judge or judge of a court of record, shall before issuing a certificate of marriage, enter upon a blank or stub provided for that purpose the names and addresses of the parties to the proposed marriage, the name of the person who will probably perform the ceremony and such other information as the state registrar shall determine is necessary and useful.

**69.47 Central office may call for papers.** Upon the demand of the state registrar all such records shall be sent to the central office at Madison for the purpose of checking the returns sent in by local registrars and then returned to the county clerk to be preserved as a permanent record.

**69.48 Going out of state to marry.** When parties living in this state shall go out of it to be married, and shall return to it to reside, they shall obtain from the county clerk of the county in which either of them resided prior to their marriage, a blank certificate of marriage which they shall cause to be properly filled out and filed with the local registrar of vital statistics of the city, incorporated village or town wherein they reside, within ten days after their return.

**Note:** Violation of this section may be punished under 352.52 in county where couple resides after such marriage. Section 245.04, relating to marriage outside state to circumvent our laws, applies only to marriages prohibited by 245.03. 27 Atty. Gen. 138.

**69.49 Industrial illness and diseases.** (1) Every medical practitioner in this state attending on or called in to visit a patient whom he believes to be suffering from poisoning from lead, phosphorus, arsenic or mercury or their compounds, or from compressed air illness, contracted as a result of the nature of the patient's employment, shall send to the secretary of the state board of health and bureau of vital statistics a notice, stating the name and full postal address and place of employment of the patient and the disease from which, in the opinion of the medical practitioner, the patient is suffering.

(2) If any medical practitioner fails to comply with the provisions of this section, he shall be liable to a fine not exceeding ten dollars.

(3) It shall be the duty of the industrial commission to enforce the provisions of this section, and he may call upon the state and local boards of health for assistance.

**69.50 Divorces reported by clerk of court.** The clerk of every court having jurisdiction of divorce proceedings shall, within thirty days after January first of each year, return to the state registrar of vital statistics upon the blanks provided for that purpose, statistics relative to each suit for annulment of marriage or divorce brought or acted upon in said court during the preceding year.

**69.51 Divorce items.** Said record shall contain the following items: The record number, full name, age, color, and occupation of plaintiff and defendant, date and place of marriage, residence of each at time of marriage and at time suit was brought, date of separation, date of filing the action, the alleged cause or causes for annulment or divorce, kind of relief prayed for, manner of service of summons, whether or not the suit was contested, date and nature of decree, final disposition of case; whether alimony was asked and granted, number of children by the marriage, number of children affected by the decree and such other information as the state registrar shall determine is necessary and useful to a proper study of divorces in this state. When a cross bill is filed a similar return relating thereto shall be made.

**69.52 Biennial report of state registrar.** The state registrar shall biennially prepare from said returns, abstracts and tabular statements of the facts relating to divorce in each county, and embody them, with the necessary analysis, in the regular biennial report of the state board of health and vital statistics.

**69.53 Fees of local registrars; certified copies.** (1) For each complete certificate of each birth, death, marriage or accident forwarded to the state registrar, together with the copy thereof transmitted to the register of deeds in accordance with the provisions of sections 69.01 to 69.54, inclusive, including the copy retained in cities and villages, the local registrar shall be paid the sum of twenty cents.

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(2) In case no births, deaths, marriages or accidents were registered during any month, the local registrar shall be entitled to be paid the sum of fifteen cents for each report to that effect promptly made in accordance with the directions of the state registrar.

(3) Certificates lacking items which shall be determined by the state registrar to be important shall be considered defective in so far as they fail to contain the specific facts or items demanded by the state registrar unless the missing information or facts are obtained to complete the original certificate and in that case the facts so obtained shall be considered a part of the original certificate as though it were contained in the original certificate, and said subsequent information relative to said facts and information shall be written on the original certificate and become a part thereof.

(4) No fee shall be paid to local registrars for defective certificates until the missing information, when possible to obtain, is supplied.

(5) All amounts payable to registrars under provisions of this section shall be paid by the treasurer of the county in which the registration districts are located upon certification by the state registrar.

(6) The state registrar shall annually certify to the treasurers of the several counties the number of births, deaths, marriages and accidents registered, with the names of the local registrars and the amounts due each at the rates fixed herein.

(7) The state registrar shall certify to the register of deeds of each county all corrections and additional information received by him to complete any original certificate received from such county.

(8) Whenever there shall be filed with the state registrar of vital statistics a certificate of death of any resident of this state, who died without the state, the registrar shall forward to the register of deeds of the county in which such deceased person resided, a certified copy of such certificate of death, who shall make a proper record of the same.

**69.54 Fees of informants; certificates; counties to pay.** (1) Each physician, midwife, minister, or priest, court commissioner, judge of a court of record, justice of the peace or other persons acting as informant and filing with the local registrar, certificates of births, deaths, and marriages completely and legibly made out in ink, shall be entitled to receive the sum of twenty-five cents for each birth, death, and marriage so recorded, to be paid by the treasurer of the county upon certification by the state registrar.

(2) Only one certificate shall be received for each birth, death, marriage and accident and the order of right to file the certificates shall be the same as the order of responsibility for filing as herein given.

(3) Defective certificates shall not be entitled to payment until the missing information, when possible to obtain, is supplied.

(4) The state registrar shall annually certify to the treasurers of the several counties, the number of births, deaths, marriages and accidents registered with the names of the persons reporting and the amounts due each at the rate fixed herein.

(5) Any person entitled to such fee shall claim and demand the same within a period of three years after receipt by the county treasurer of the warrant or certificate from the state registrar authorizing such payment, and no right to such fee shall exist after the expiration of such time. Provided that every claim and right now existing to such fees as are mentioned in this section of the statutes, whether arising thereunder or under any other law relating to such fees, shall become void, and every right of action for the collection thereof shall be barred, after the expiration of one year from and after the passage and publication hereof.

**69.55 Local registrar, transmit copies to register of deeds.** The local registrar shall, on or before the seventh day of each month, make a (complete and accurate) copy of each birth, death and marriage certificate received by him, upon a form identical with the original certificate and transmit the same to the register of deeds of his county.

**69.56 Register of deeds; duties.** (1) Every register of deeds shall file and index all certificates of births, deaths, or marriages, received by him from the state and local registrar and thereafter properly bind said certificates in book form. He shall also make all corrections or additions certified to him by the state registrar. The cost of all books furnished to each county by the state registrar shall be paid by the treasurer of such county upon the certificate of the state registrar.

(2) Whenever original certificates of birth, death or marriage or accidents are sent to the register of deeds by physicians, midwives, ministers or other persons, the register of deeds shall forthwith return all such original certificates to the local registrar in the district where the birth, death, marriage or accident occurred.

(3) Such register of deeds shall receive from the county a fee of ten cents for the filing, indexing and correcting of each certificate so filed and indexed by him.



**Note:** Fee for filing and registering marriage, birth and death certificates is determined by 59.57 (11b), rather than 69.56 (3). 24 Atty. Gen. 335.

See note to 59.51, citing 27 Atty. Gen. 619

**69.57 Omitted registration, how supplied; report to state board.** When any marriage, birth or death heretofore or hereafter occurring in this state, shall not have been registered, upon presenting and filing with the local registrar of the township, incorporated village or city in which the marriage, birth or death occurred, or with the state board of health, proof of such marriage, birth or death on blanks to be furnished by the state board of health, the certificate shall be accepted for record and an exact copy sent to the register of deeds. Local registrars shall report to the state board of health each month all such original certificates filed with them after making a copy for the register of deeds. Proof shall be required as follows: In case of marriage, the affidavit of the person who performed the ceremony or, if such proof cannot be made, then the affidavit of some person not a party to the marriage who was present thereat; in case of birth, the affidavit of the attending physician, midwife, parent or other person who has actual knowledge of the time of such birth and of his parentage; and in case of death, the affidavit of some person who knew the deceased while living and actually saw him dead or has actual knowledge of his death. In each case such affidavit shall set forth the facts necessary to make a satisfactory record of such marriage, birth or death in the manner required by law.

**69.58 Monthly report of births, marriages and deaths.** The local registrar of each township, incorporated village and city shall, on the first day of each and every month, make an exact copy of all births, marriages and deaths recorded in such city, incorporated village or township during the previous month, whenever the parents of the child born, or the bride or the groom, or the deceased person, were resident in any other city or incorporated village in this state or in any other state at the time of said birth, marriage or death; and shall transmit such copies to the registrar of the incorporated village, city or state in which such parents of the child born, the bride or the groom, or the deceased, were resident at the time of said birth, marriage or death. The registrars so receiving such copies shall record the same in the books kept for recording births, marriages and deaths. Such copies shall be made upon blanks to be furnished for that purpose by the state board of health.

**69.59 Marriage records; correction.** The circuit court of any county in which there is any marriage legally recorded may make an order correcting such record on proof being made to the satisfaction of the court that the record is incorrect in any particular. The officer in charge of such records shall record such order or a copy certified by the clerk under the seal of the court, and such record shall have the same effect as the record of marriage duly returned by the proper person.

**69.60 Birth certificates; adoption.** (1) On being advised pursuant to section 322.05 of the adoption of any child whose birth has previously been registered or pursuant to section 245.35 of the legitimation of any child due to the subsequent marriage of the parents, the state registrar of vital statistics shall cause a new birth certificate to be filled out signed by himself or his authorized representative. In the certification to this new certificate, and over his signature, reference shall be made to this section of the statutes by number only. In all other respects the certificate shall be the same as other birth certificates, and shall contain nothing else to differentiate it therefrom.

(2) In cases of adoption, all the names and statistical particulars entered on the new certificate shall refer to the adoptive parents. Where the question of legitimacy is asked, it shall be answered in the affirmative.

(3) In cases of legitimation under section 245.35, the names and statistical particulars shall be entered as of the date of birth but as though the parents were married at that time. Where the question of legitimacy is asked, it shall be answered in the affirmative.

(4) All other items not affected by the adoption or legitimation shall be copied as on the original, including the date of filing.

(5) The new certificate shall then be filed in place of the original, and the original, together with all correspondence, affidavits, court orders, etc. pertaining thereto, shall be filed away from all public access. Copies of or access to these originals or any material pertaining thereto shall be obtained only on court order or at the discretion of the state registrar. Copies of the new certificate shall be issued under the same laws and rules as apply to the issuing of other certificates.

(6) The state registrar shall send a copy of each such new certificate to the register of deeds and to the village clerk or city health officer where a copy of the original was filed. Such register of deeds and local registrar shall file this new record in their regular

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file, and impound the original which shall not be examined except upon court order or request of the state registrar.

(7) This section shall be retroactive in that the state registrar may treat all such records now on file since October 1, 1907, in such manner, and so notify the registers of deeds and local registrars. [1931 c. 352 s. 2; 1939 c. 524]

69.605 [Repealed by 1939 c. 524 s. 1]

## OTHER LAWS ON VITAL STATISTICS

**352.52 Violation of health regulations; penalty.** Any person who shall wilfully violate any of the provisions of chapter 69, or who shall neglect, or refuse to perform any duty or do any act imposed upon him as required by said chapter, or who shall neglect or refuse to make any certificate required by said sections to be made, or falsely make any such certificate, or knowingly make any false statement in any such certificate, or who shall alter any certificate or report provided for as required by said chapter shall be punished by a fine of not less than twenty dollars or more than two hundred dollars for each offense, or by imprisonment in the county jail for a period of not less than thirty days or more than sixty days, or by both such fine and imprisonment.

**166.11 Judgment.** (2) All of the foregoing matters shall be ascertained and fixed by the court and shall be inserted in the judgment, together with an order directed to the clerk of the court to file with the state registrar of vital statistics a certified copy of all judgments determining the paternity of the child, and a report showing the name, date, and place of birth of the child and the name, color, residence, age, birthplace and occupation of the father of the child. Judgments entered upon agreement of the parties shall conform to the above unless the parties are unable to agree as to the paternity of the child, when such adjudication may be omitted.

**245.20 Records and blanks.** The state registrar of vital statistics shall prescribe model forms for blank applications, statement, consent of parents, affidavits, licenses and marriage certificates and other such forms as shall be necessary to comply with the provisions of this act and shall furnish to the county clerk of each county, at the expense of the county, all of the aforesaid blanks, together with a suitable book to be called the marriage license docket, which said county clerk shall keep in his office among his records, and enter therein a complete record of the applications for, and the issuing of all marriage licenses and of all other matters which he is required by this act to ascertain relative to the rights of any person to obtain a license. Said marriage license docket shall be open for public inspection or examination at all times during office hours. All funds received by the state registrar of vital statistics under the provisions of this section shall be paid into the state treasury within one week of their receipt and all such moneys are appropriated to the state board of health to carry into effect the provisions of this section.

**245.25 Delivery and filing of certificates.** The marriage certificates marked "duplicate" and "triplicate," duly signed, shall be given by the officiating person to the persons married by him; and the certificate marked "original," legibly and completely filled out with unfading ink, shall be returned by such officiating person, or, in the case of a marriage ceremony performed without an officiating person, then by the parties to the marriage contract, or either of them, to the local registrar of vital statistics of the city, village or town in which said marriage was performed, within three days after the date of said marriage. The marriage license shall be retained by the person who solemnizes the marriage, or in case of a marriage performed without an officiating person, by the parties to the marriage contract, or either of them, to be prima facie evidence of authority to perform the marriage ceremony.

**245.29 Penalty for failure to file certificate.** Every officiating person, or persons marrying without the presence of an officiating person, as provided by subsection (2) of section 245.12, who shall neglect or refuse to transmit the original certificate of any marriage solemnized by him or them, to the local registrar of vital statistics three days after the date of such marriage, shall be fined the sum of not to exceed two hundred dollars.

**245.36 Legitimation of children.** In any and every case where the father and mother of an illegitimate child or children shall lawfully intermarry, such child or



children shall thereby become legitimated and enjoy all the rights and privileges of legitimacy as if they had been born during the wedlock of their parents; and this section shall be taken to apply to all cases prior to its date, as well as those subsequent thereto; provided, that no estate already vested shall be divested by section 237.06 and sections 245.12 to 245.38. The issue of all marriages declared null in law shall, nevertheless, be legitimate.

**322.05 Order of adoption; change of name.** If, after the hearing and the written consent of the persons whose consent to adoption is necessary, the court shall be satisfied that the facts stated in the petition are true, that the petitioners are of good moral character and of reputable standing in the community and of ability properly to maintain and educate the child sought to be adopted, that the best interests of such child would be promoted by adoption, that such child is suitable for adoption, and that all legal requirements relative to adoption have been complied with, then the court shall make an order that from and after the date thereof such child be deemed to all legal intents and purposes the child of the petitioners. In such order the name of the child may be changed to that of the parents by adoption. Such order shall set forth all jurisdictional facts. After entry of such order the clerk of the court shall promptly report to the state registrar of vital statistics full information as to the prior name, date and place of birth, and natural parents of the child and the name, address and occupation of the parents by adoption, the new name of the child, if any, and such other data as the state bureau of vital statistics requires, and the date of the order of adoption and the court issuing the same.

**327.28 Proof of age.** The county court of any county may upon application and satisfactory proof made, make an order determining the age of any resident of the county. Such order, or a certified copy thereof, when recorded in the office of the register of deeds shall be prima facie evidence of the facts therein stated.

**Note:** This is *not* a birth certificate, but only a substitute proof of age.

## VITAL STATISTICS

### Comment

The vital statistics law requires that every birth, death and marriage be registered. Each city, each incorporated village, each township is a primary registration district. For the convenience of the people each registration district has a local registrar. In cities the health officer is local registrar, in incorporated villages, the village clerk is local registrar and in townships the town clerk is local registrar.

**How births are registered.** The doctor or midwife who attends a birth must file within five days certificates of birth with the local registrar of the district in which the birth occurred. If there was no doctor or midwife in attendance, parents are required to file the certificate. Local registrars furnish blank forms and make no charge for registering births.

**How deaths are registered.** The undertaker, or the person who has charge of the burial of a dead body, is required to file with the local registrar a death certificate, properly signed by some one conversant with the facts and by the physician last in attendance, and is required to secure a burial or removal permit before the body is buried or removed. Local registrars make no charge for issuing permits.

**How marriages are registered.** The minister, justice or other person solemnizing a marriage must file the marriage certificate with the local registrar of the town, incorporated village or city where the marriage occurred within three days after the date of marriage.

**Why register births?** There is hardly a relation of life, social, legal, or economic, in which the evidence furnished by an accurate registration of births may not prove to be of the greatest value, not only to the individuals but also to the public at large. It is not only an act of civilization to register birth certificates but good business, for they are frequently used in many practical ways:

- (1) To qualify, under the various provisions of the Social Security Act;
- (2) As evidence to prove the age and legitimacy of heirs;
- (3) As proof of age to determine the validity of a contract entered into by an alleged minor;
- (4) As evidence to establish age and proof of citizenship and descent in order to vote;
- (5) As evidence to establish the right of admission to the professions and to many public offices;
- (6) As evidence of legal age to marry;
- (7) As evidence to prove the claims of widows and orphans under the widows and orphans pension law;
- (8) As evidence to determine the liability of parents for the debts of a minor;
- (9) As evidence in the administration of estates, the settlement of insurance and pensions;
- (10) As evidence to prove the irresponsibility of children for crime and misdemeanor, and various other matters in the criminal code;
- (11) As evidence in the enforcement of laws relating to education and to child labor;
- (12) As evidence to determine the relations of guardians and wards;
- (13) As proof of citizenship in order to obtain a passport;
- (14) As evidence in the claim for exemption from or the right to jury and militia service.

**Why register deaths?** A death record should include the facts relating to the exact time and place of death, the full name, sex, color, civil condition, occupation, place of birth, and other details relating to the individual, and also, a very important requirement, a statement by the attending physician, or by the health officer or coroner, of the cause of death. These facts may be of the greatest legal and social importance.

- (1) To qualify for benefits under the Social Security Act;
- (2) Certificates of death, or certified copies, are constantly required in courts and elsewhere to establish necessary facts;



(3) Pensions or life insurance may depend on proper evidence of the facts and cause of death;

(4) Titles and rights to inheritance may be jeopardized by the failure of records;

(5) Deaths should be registered that public health agencies—national, state and municipal—may know the causes of death and act promptly to prevent epidemics;

(6) Deaths should be registered promptly that the success or failure of all measures attempted in the prevention of diseases may be accurately determined;

(7) Deaths should be registered that individual cities and localities may learn their own health conditions by comparison with the health conditions of other communities and determine thereby the wise course of public health activity;

(8) Deaths should be registered that homeseekers and immigrants may be guided in the selection of safe and healthful homes.

## CHAPTER 143.

## COMMUNICABLE DISEASES.

143.01	Communicable diseases.	143.10	Contagious diseases; suspected cases; protection of public.
143.02	Powers of state board.	143.11	Violation of law relating to health.
143.03	Duties of local officers.	143.12	Communicable diseases; schools and libraries; duties of teachers, parents, officers.
143.04	Reports of cases.	143.13	Protection against smallpox.
143.05	Quarantine.	143.14	Typhoid carriers; commitment; compensation; nonresidents.
143.06	Tuberculosis.		
143.07	Venereal disease.		
143.08	Handling foods.		
143.09	Penalty.		

**143.01 Communicable diseases.** Asiatic cholera, diphtheria, scarlet fever, smallpox, leprosy, typhus or ship fever, yellow fever, and such other diseases as are in fact communicable, and so determined by the state board of health by rule, shall be within the term "communicable disease," as used in the statutes.

**143.02 Powers of state board.** (1) The state board of health may establish such systems of inspection as it deems necessary to ascertain the presence of communicable disease, and any member or authorized agent or inspector of said board may enter any building, vessel, railway car or other public vehicle to inspect the same and remove therefrom any person affected by such a disease, and for this purpose may require the person in charge of any vessel or public vehicle, other than a railway car, to stop the same at any place, and may require the conductor of any railway train to stop his train at any station or upon any sidetrack, for such time as may be necessary.

(2) In emergency, the board may provide those sick with such disease with medical aid and temporary hospital accommodation and with nurses and attendants.

(3) The board may close schools and forbid public gatherings in schools, churches, and other places when deemed necessary to control epidemics.

(4) The board may adopt and enforce rules and regulations for guarding against the introduction of any such disease into the state, for the control and suppression thereof within it, for the quarantine and disinfection of persons, localities and things infected or suspected of being infected by such disease, for the preparation, transportation or burial of corpses, for the speedy and private interment of the bodies of persons who have died from communicable disease, for the sanitary care of jails, asylums, schoolhouses, hotels and all other public buildings and premises connected therewith. Any rule and regulation may be made applicable to the whole or any specified part of the state, or to any vessel, railway car or other public vehicle. Rules of general application shall be published in the official state paper; but rules, regulations or orders may be made for any city, village or town by service thereof upon the local health officer. Rules, regulations or orders hereunder shall supersede conflicting local rules, regulations or ordinances.

(5) All public officers and employes shall respect and enforce the rules and regulations made hereunder, and they and persons in charge of institutions, buildings, vessels and vehicles within this section, shall co-operate with the state board of health in carrying out its provisions, and if such co-operation be refused or withheld the state board may execute its rules and regulations by agents of its own appointment, and expenses incurred in so doing shall be paid by the county, city, town or village, except they are incurred for the prevention and control of Asiatic cholera and the state has created a fund for that purpose.

(6) Any person who shall fail to obey the rules and regulations hereunder, or who shall wilfully obstruct or hinder the execution thereof, for each offense shall be fined not less than twenty-five nor more than five hundred dollars, or imprisoned not more than six months, or both.

**143.03 Duties of local officers.** (1) Every local health officer, upon the appearance of any communicable disease in his territory shall immediately investigate all the circumstances, make a full report to his board and also to the state board of health; he shall at all times promptly take such measures for the prevention, suppression and control of any such disease as he deems needful and proper, subject to the approval of his board, and shall report to his board the progress of such diseases and the measures used against them, with such frequency as to keep the board fully informed, or at such intervals as the secretary may direct. The local health officer shall inspect the schoolhouses and other public buildings within his district, with sufficient frequency to determine whether such buildings are kept in a sanitary condition.



#### 143.04 COMMUNICABLE DISEASES

(2) Local boards of health may do what is reasonable and necessary for the prevention and suppression of disease; may forbid public gatherings when deemed necessary to control epidemics, and under direction of the state board, shall furnish antitoxin free to indigent persons suffering from communicable disease.

(3) If the local authorities fail to enforce the communicable disease statutes and rules, the state board of health shall take charge, and expenses thus incurred shall be paid by the municipality.

(4) No person shall interfere with the examination under this chapter of any place or its occupants by health officials or their assistants, nor with any notice posted under this chapter.

**143.04 Reports of cases.** (1) A physician knowing or having reason to know that a person treated or visited by him has a communicable disease, or having such disease, has died, shall report the same to the local health officer, commissioner, or board. In the case of a person having poliomyelitis, the physician shall in addition to the report made to the health officer, send a report immediately to the state board of health, giving the name, address, age and description of disability of such person.

(2) If no physician is in attendance, the same duty shall apply to the head of the family, or if the sick person is not a member of the family, to the person actively in charge of the building.

(3) Anyone having knowledge or reason to believe that any person has a communicable disease shall report the facts to a local health official.

(4) Reports under subsections (1) and (2) hereof shall state so far as known the name, sex, age, and residence of the sick person, the disease and such other facts as shall be required, and shall be upon furnished blanks. The blanks shall be furnished by the state board of health and distributed by the local health officer.

(5) All reports shall be made within twenty-four hours, and may be mailed or, except in cities, left with or at the residence of any health official, within that time.

(6) The local health officials shall transcribe the report into a permanent record and within seven days transmit the original to the state board, stating therein what investigation was made and what steps taken to prevent spread of the disease.

(7) When an epidemic occurs, the local health officials shall within thirty days after it has subsided, report to the state board the origin, means of spread, number of cases and number of deaths.

(8) A list of communicable diseases shall be displayed in a prominent place in each physician's office and in each institution for the treatment of the sick. The list shall be printed on a card not less than one foot square furnished without cost by the state board of health.

(9) In diagnosing communicable diseases in patients accepted for treatment, physicians shall use ordinary skill and bacteriological examinations where the same would be of material value in disclosing such disease. If there is a dispute regarding diagnosis, if a bacteriological examination will aid, the local health officer shall order it made by the state laboratory of hygiene.

(10) A physician violating subsection (9), and any person violating subsections (1) to (5), inclusive, hereof, shall be fined not less than five nor more than one hundred dollars, or imprisoned not less than five nor more than ninety days, or both, or subjected to a forfeiture to the school fund of not less than five nor more than twenty-five dollars for each day. Upon a second or subsequent conviction of a physician, the board of medical examiners shall suspend his license for one year.

(11) When violation hereof is reported to him by a local or state health officer the district attorney shall forthwith prosecute the proper action, and upon request of the state health officer, the attorney-general shall assist. [1937 c. 136]

**143.05 Quarantine.** (1) The state board of health may establish quarantine. Communicable diseases that public safety requires be quarantined, and as to which that fact is determined by the state board of health by rule, shall be within the term quarantinable disease, as used in the statutes.

(2) Local boards of health with the consent of the state board may establish quarantine within their territory, and for cities within five miles of the limits.

(3) When a health officer shall know, suspect or be informed of the existence of any communicable disease, he shall cause it to be at once examined and upon being notified as provided in subsections (1) and (2) of section 143.04, which shall be prima facie evidence of the fact, or having knowledge of the existence of any disease which has been designated by the state board to be quarantinable, shall immediately quarantine the infected place, and the family, if necessary, in such manner and for such time as the state board provides in its rules. A placard shall be posted in a conspicuous position on the place, giving the

name of the disease or the word "quarantine" in letters not less than two inches high, and containing the following: "All persons, except the health officer or his representative, attending physicians and nurses and clergymen, are forbidden to enter or leave these premises without a special written permit from the health officer, and all persons are forbidden to remove, obscure or mutilate this card or to interfere in any way with this quarantine without written orders from said health officer, under penalty of fine or imprisonment."

(4) The local health officer upon being notified or having knowledge of the existence of cases of influenza, measles, rotheln, whooping cough, chicken pox, typhoid fever and leprosy shall immediately placard the infected place by posting conspicuously thereon a card giving the name of the disease in letters not less than one inch high, and containing the following: "All persons are notified of the presence of this disease and on account of its communicable character are warned against visiting or coming in contact with those sick with it. All persons sick with this disease are prohibited from leaving the premises or coming in contact in any way with the general public. All persons are forbidden to remove, obscure or mutilate this card or to interfere in anyway with these restrictions, under penalty of fine or imprisonment."

(5) The local board shall employ as many persons as are necessary to execute its orders and properly guard any quarantined place if quarantine is violated or intent to violate quarantine is manifested. Such persons shall be sworn in as quarantine guards, shall have police powers, and may use all necessary means to enforce the state laws for the prevention and control of communicable diseases, or the orders, rules and regulations of any board of health.

(6) (a) When the health officer deems it necessary that such afflicted person be quarantined in a separate place, he shall remove him, if it can be done without danger to his health, to such place, and the expense of such removal shall be paid by the municipality.

(b) When a person confined in a jail, county asylum, workhouse or county home has a disease which the local health officer deems dangerous to the other inmates or the neighborhood, the board shall, by its order in writing, direct the removal of such person to some hospital or other place of safety, there to be provided for and securely kept. If he recover he shall be returned; and if he was committed by a court or under process the removal order or a copy shall be returned by the board, with their doings thereon, to the committing court officer.

(7) All residences where a quarantinable disease exists shall be placarded by the health officer while the disease is present and until disinfection. The expense of maintaining quarantine, including examinations and tests for disease carriers and the enforcement of isolation on the premises, shall be paid by the city, incorporated village or town upon the order of the local board of health.

(8) The health officer shall cause to be disinfected, by methods approved by the state board, rooms, clothing and premises, and all articles likely to be infected, before allowing their use by persons other than those in isolation and before quarantine is removed, if the disease is a quarantinable one.

(9) If property is destroyed by order of municipal officials, to stamp out or prevent the spread of communicable disease the governing body may, upon certificate of the health officer that the destruction was necessary and of the amount and value, pay for it to the extent of one hundred dollars for property owned or in the possession of a single family, and not to exceed the value certified.

(10) Expenses for necessary nurses, medical attention, food and other articles needed for the comfort of the afflicted person, shall be charged against him or whoever is liable for his support. Indigent cases shall be cared for at municipal expense. In any county having a population of five hundred thousand or more, said county shall provide hospitalization and shall charge the cost thereof against the afflicted person or whoever is liable for his support, but the cost of indigent cases shall be charged to and paid by the municipality in which the communicable disease is suspected or diagnosed as such. If he is a legal resident of another municipality of this state, the expense of care shall be paid by such municipality, or by the county where the county system for the care of the poor has been adopted, when a sworn statement of such expense is sent to the proper officers within thirty days after quarantine.

(11) Anyone without authority interfering with any placard or sign hereunder, or violating this section, shall be fined not less than five nor more than one hundred dollars, or imprisoned not less than five nor more than ninety days. [1935 c. 416]

**Note:** Amendment to (10) by ch. 416, Laws 1935, is not invalid; see note to sec. 23, art. IV, Const., citing *Milwaukee County v. Milwaukee*, 223 W 674, 271 NW 399.

In indigent cases of communicable diseases where quarantine is ordered Shick

test and serum used to immunize patient must be paid for by town, village or city, and serum used for other purposes for benefit of patient must be paid for by municipality liable for support of poor. Procedure is to notify poor commissioner as soon as



## 143.06 COMMUNICABLE DISEASES

place is quarantined, who is required to furnish necessities of life in same manner that he furnishes same to other indigent persons. If he fails to do so mandamus is probably remedy. 21 Atty. Gen. 303.

Quarantine expenses of person afflicted with communicable disease, if he is quarantined in hospital on order of local board of health, are charge upon municipality; but if he is ordered to hospital by county judge under chapter 142 expense of hospitalization is

paid by county on order of judge. 22 Atty. Gen. 894.

Loss of profits or extra expense incurred by individuals because of quarantine are not compensable. 25 Atty. Gen. 514.

Section 143.05 (10) provides procedure for indigent transient quarantine cases. There should be no conflict between said section and 49.03 (9) in practical administration of two. 27 Atty. Gen. 532.

**143.06 Tuberculosis.** (1) Every physician or person, or owner, agent, manager, principal or superintendent of an institution, hotel or boarding or lodging house, shall cause to be reported to the local board of health in writing, the name, age, sex, occupation and latest address of every person afflicted with tuberculosis, who is in their care, or who has come under their observation, within one week of such time. The report shall be confidential to the extent that the name or address of the patient shall not be published by any newspaper, or publication of general or special circulation.

(2) Every person sick with tuberculosis, or in attendance, and the authorities of such places, shall observe and enforce the rules and regulations of the health board for preventing spread.

(3) No person with tuberculosis of the lungs or larynx, or any other disease whose virus or infecting agent is contained in the sputum or other secretions shall deposit his sputum, or other infectious secretion, in such a place as to cause offense or danger. He shall provide himself with a receptacle in which to deposit his sputum, or other infectious secretion, and the contents of said receptacle shall be burned or thoroughly disinfected.

(4) If any person afflicted with tuberculosis, as shown by the examinations made in the state laboratory of hygiene, in any branch and co-operative laboratory or in any municipal laboratory accredited by the state board of health, fails to comply with this section, or the tuberculosis rules of the state board of health, he may be committed to a county tuberculosis hospital or any other place or institution where proper care will be provided and where the necessary precautions will be taken, by any judge of a court of record upon proof that such person has so offended. Complaint may be made by any health officer or any resident of the municipality where the offense was committed, and the judge shall notify the person complained of and give him opportunity to be heard. The court may make such order for payment for care and treatment as may be proper. Such person may be discharged when the court thinks proper. If any person so committed fails to remain, or to obey the rules and regulations of the institution, the superintendent may separate him from other persons and restrain him from leaving.

(5) Upon complaint of any responsible person the local board of health shall at once investigate and if it finds conditions dangerous to health it shall make and enforce the necessary orders.

(6) If any place be vacated by death from tuberculosis, or by removal of a consumptive the person or physician in charge shall notify the local health officer within twenty-four hours and the place shall not again be occupied until disinfected. The health officer shall immediately visit the place and order the same and all infected articles properly disinfected. If there shall be no remaining occupants the health officer shall give notice in writing to the owner or his agent ordering such disinfection. If the order of the health officer is not complied with within thirty-six hours the health officer shall cause a placard to be placed upon the door, as follows:

### NOTICE.

Tuberculosis is a communicable disease. These apartments have been occupied by a consumptive and may be infected. They must not be occupied until the order for their disinfection has been complied with. This notice must not be removed under penalty.

(7) For the purpose of this section persons in charge of common carriers shall have police powers.

(8) The penalties prescribed in subsection (11) of section 143.05 shall apply to this section.

**143.07 Venereal disease.** (1) Any person afflicted with gonorrhea, chaneroid or syphilis in its communicable stage is declared a menace to the public health. A physician called to attend a person so afflicted shall report to the state board of health in writing, on blanks furnished by said board and as it directs, his age, sex and conjugal condition and the name of the disease.

(2) An officer of the state board of health having knowledge of any known or reasonably suspected case of such a menace for which no treatment is being administered under the supervision of a physician authorized to prescribe drugs shall forthwith investigate or cause such case to be investigated by such means as may be nec-

essary. Whenever, following a request of an officer of the state board of health, a reasonably suspected case of such menace shall refuse or neglect examination by a physician licensed to prescribe drugs, an officer of the state board of health may proceed to have such person committed in conformity with subsection (5) of this section, to an institution for examination or observation. A local health officer who is a physician may be authorized to make such investigation and take such commitment procedures in any specific case when directed to do so by the state board of health or the state health officer.

(3) A physician treating such a person shall fully inform him of the danger of transmitting the disease and he shall advise against marriage while the person has the disease in a communicable form.

(4) When a person so afflicted ceases or refuses taking treatment before reaching what in the physician's opinion is the noncommunicable stage, the physician shall forthwith notify the state board of health, giving the name, age, sex and conjugal condition of the person afflicted and the disease. The board shall without delay take such steps as shall be necessary to have said person committed for treatment.

(5) Any such person who thus ceases or refuses treatment under the supervision of a physician authorized to prescribe drugs, upon proof of the facts, may be committed by the judge of any court of record to any county or state institution where proper care and precaution can be provided; provided, that any county board of counties having a population of two hundred fifty thousand or more may designate the county institution or place to which such commitments shall be made. The state board of control is authorized to make such provision for the treatment of venereal disease cases at one or more of the state institutions under its management and shall designate the state institution to which commitment may be made thereto. Such person shall, upon verified petition setting for the facts by an officer of the state board of health or a local health officer authorized by such board, be summoned by such judge to appear at the time and place stated in the summons, which time shall be not less than forty-eight hours after service. If the person summoned, as herein provided, shall fail without reasonable cause to appear and abide the order of the judge, he may be proceeded against as in case of contempt. In any case when it shall be made to appear to the judge that such summons will be ineffectual a warrant may be issued by such judge, directed to the sheriff or any constable or police officer of the county for the apprehension and production of such person complained against before such judge forthwith, and such person shall be arrested and taken before such judge accordingly. Upon return of the process the judge shall proceed to hear the latter summarily. Commitment shall continue until the disease is no longer communicable or until other provisions satisfactory to the state board of health are made for treatment, the certificate of the officer making the complaint being prima facie evidence of either. Nothing herein contained shall be construed as in any manner restricting or limiting the rights of individuals as declared in subsection (2) of section 147.19.

(6) Each county shall make such provision as may be required by the state board of health for the care and treatment of indigents with venereal diseases. One-half of the per capita cost for each such person committed to a state institution shall be paid by the county of his legal settlement in the manner prescribed by section 46.10, but nothing herein shall prevent recovery of the actual per capita cost of such maintenance in either state or county institutions from the patient or legally liable relatives in the manner provided by law.

(7) Reports, examinations and inspections and all records thereof made under this section shall be confidential and not open to public inspection, and no part thereof shall be divulged except as may be necessary for the preservation of the public health. When a physician has reported a case of venereal disease to the state board of health, in compliance with subsection (4) of this section, all questions regarding the presence of the disease and the date from which the treatment was neglected shall not be regarded as privileged information when the patient or physician is called upon to testify to the facts before any court of record.

(8) The state board of health may prescribe reasonable rules and regulations for carrying out this section, and with the approval of the governor, regulate the presence and conduct of civilians within a designated zone around any military or naval cantonment or training station.

(9) The state board of health shall prepare for free distribution upon request to citizens of the state, printed information and instructions concerning venereal diseases.

(10) The state laboratory of hygiene and branch and co-operative laboratories shall make microscopical examinations for the diagnosis of gonorrhea, and the psychiatric in-



## 143.08 COMMUNICABLE DISEASES

stitute the necessary examinations of blood or secretions for the diagnosis of syphilis, for any physician in the state, without charge.

(11) No person not a physician licensed in this state shall give, sell, prescribe or recommend any drugs, or other substance for syphilis, gonorrhea or chancroid, or compound any such except on written prescription bearing date and signed by a physician licensed in this state.

(12) No person having the supervision or control of any public place shall display or permit to be displayed any written matter relating to venereal disease, except governmental and educational publications not objectionable to the state board of health.

(13) Any city or county may by ordinance require that every person arrested and convicted within its jurisdiction for any act involving moral turpitude shall undergo a medical examination to determine whether or not such person is afflicted with a venereal disease. Nothing herein contained shall be construed as in any manner restricting or limiting the rights or privileges of individuals under the provisions of subsection (2) of section 147.19, or to compel such individuals to submit to such examinations. [1931 c. 67 s. 168; 1937 c. 361]

**143.08 Handling foods.** It shall be unlawful for any person, firm or corporation operating any hotel, cafe, restaurant, dining car or other public eating place, or operating any bakery, meat market, dairy or other establishment where food products to be consumed by others are handled, knowingly to employ or keep in their employ any person handling food products who has a communicable disease or any venereal disease in a communicable form. Whenever required by the local health officer or any officer of the state board of health any person employed in the handling of foods who is suspected of having a venereal disease in the communicable form shall submit to an examination by such officer or by some physician designated by such officer. The expense of such examination, if any, shall be paid by the person examined if found to have such disease. Any person knowingly affected with a communicable disease or any venereal disease in a communicable form who handles food products to be consumed by others and any persons knowingly employing or permitting such person to handle food products to be consumed by others shall be punished as provided by section 143.09.

**143.09 Penalty.** Violation of sections 143.07 or 143.08 shall be punished by a fine of not more than five hundred dollars or by imprisonment in the county jail for not more than one year, or both.

**143.10 Contagious diseases; suspected cases; protection of public.** Any person who knows that he is afflicted with smallpox, diphtheria, scarlet fever or other dangerous, communicable disease, who shall wilfully enter any public place or public conveyance, or shall, in any way, wilfully subject others to danger of contracting his disease and any person who shall knowingly and wilfully take, aid in taking, advise or cause to be taken, a person who is afflicted or is suspected of being afflicted with any such disease, into any such place or conveyance, or in any way knowingly and wilfully subject, expose or aid in exposing any other person to danger of contracting any such disease, shall be punished by imprisonment in the county jail not more than one hundred days nor less than twenty days, or by fine not exceeding one hundred dollars nor less than fifty dollars, or by both such fine and imprisonment.

**143.11 Violation of law relating to health.** Any person who shall wilfully violate any law relating to the public health, for which violation no other penalty is prescribed, or any order or regulation of any board of health, lawfully made and duly published, shall be punished by imprisonment in the county jail not more than three months or by fine not exceeding one hundred dollars.

**143.12 Communicable diseases; schools and libraries; duties of teachers, parents, officers.** (1) Upon the appearance of any dangerous communicable disease, the local health officer shall give written notice to the principal or teacher of each school, and the librarian of each library in his district, of the names of all families where the disease exists. If the rules of the state board of health provide for the exclusion from school of person who live in homes where such disease exists, the health officer shall request the principal of the school to exclude from school all such persons until a written order signed by the health officer permitting attendance is presented.

(2) When the principal or teacher of a school has been notified of the prevalence of a dangerous communicable disease in the school district, or when the principal or teacher of the school knows or suspects that a dangerous communicable disease is present in the school, he shall at once notify the local health officer who must then investigate the matter.

(3) Parents shall not permit children afflicted with a dangerous communicable disease to attend school.

(4) All schoolhouses, before the beginning of each school term, shall be thoroughly cleaned and, after the outbreak therein of any contagious disease, shall be thoroughly dis-

infected, as provided by the state board of health. All buildings requiring disinfection shall be disinfected by or under the direction of the local health officer, and the expenses of disinfection shall be paid by the town, village or city, upon the order of the local board of health.

(5) Neglect or refusal on the part of any principal or teacher to comply with the requirements of this section shall be sufficient cause for his dismissal.

(6) All teachers shall send home pupils who are habitually dirty, noisome or lousy, and shall immediately give written notice to the school board or the superintendent of schools and to the parents of such pupils of such action and the reasons therefor.

(7) Library books shall not be taken into or returned from a home where such disease exists or has recently occurred unless thoroughly disinfected by or under the direction of the local health officer, and may be burned by such officer.

**143.13 Protection against smallpox.** (1) Each local board of health shall forthwith, upon the appearance of smallpox, prohibit the inhabitants of the municipality from attending school for a period of fourteen days, except persons who have been successfully vaccinated, or who show a doctor's certificate of recent vaccination. This subsection shall apply to nonresidents coming into the municipality to attend school.

(2) Should new cases of smallpox continue to develop in the municipality, the local board of health shall renew such order for so many days as the state board of health may deem necessary.

(3) When exclusion from school is so ordered the local board of health shall provide for the free vaccination of all resident children of school age during the outbreak of smallpox, the necessary expense thereof to be paid by the municipality, upon the order of the local board of health. Such gratuitous vaccination may be extended to nonresident school children of the municipality at the discretion of the local board of health. Upon the order of their respective boards of health the municipalities comprising a joint school district shall offer free vaccination to their own resident pupils excluded from a joint school because of the appearance of smallpox in the municipality in which the school is located. The state board of health shall, when deemed necessary by the local board of health, determine the method to be employed in such vaccination, shall designate the persons to do the work and may determine the maximum fee to be charged. [1935 c. 98]

**143.14 Typhoid carriers; commitment; compensation; nonresidents.** (1) Any person declared by the state board of health to be a typhoid carrier as determined by epidemiological or laboratory tests shall be deemed a menace to the public health. Whenever a typhoid carrier is unable or unwilling to conduct himself in the manner required by the state board of health he may be made to appear before the judge of any county of which he is a resident or which he inhabits. Complaint shall be made by an officer of the state board of health. Upon proof of violation of the requirements of the state board of health such carrier may be committed by the court to any institution where proper care and maintenance can be provided. The period of commitment shall continue until the state board of health through its proper officer or the committing court shall consent to discharge. Expense of maintenance during commitment shall be borne by the person so committed, or if he is without sufficient funds, by the county from which he was committed.

(2) Whenever a typhoid carrier is prevented by his affliction from engaging in an occupation assuring a livelihood, such person may, upon complaint of the state board of health, be brought before the court of the county of which he is a resident and upon due proof such funds as are necessary to compensate for loss of earning power may be awarded him not in excess of thirty dollars per month. During the receipt of such funds, such typhoid carriers shall be quartered in the home, place or establishment under arrangements satisfactory to the court or the state board of health. Payment shall be made by the county of his residence.

(3) Any nonresident carrier violating the rules of the state board of health relating to typhoid carriers may be returned by the state board of health or by any local health officer to the county or municipality of his residence and the health officer at the point of his residence shall be promptly informed and shall assume jurisdiction.

(4) Nothing herein contained shall be construed as in any manner restricting or limiting the rights of individuals, as declared in subsection (2) of section 147.19. [1935 c. 129]



## Comment

## SUGGESTIONS TO HEALTH OFFICERS

You are the official representative of the board of health, responsible to it, but you cannot act legally until you have taken the oath of office. Arrange for your compensation with your board at the time you are appointed.

When you know, suspect, or are informed of the existence of any communicable disease, dangerous to the public health, you are required to investigate the truth or falsity of the report. If the report is found to be true, apply the rules of the state board of health.

It is the duty of every physician, nurse, schoolteacher, householder, or any person having knowledge or suspicion of the presence of a dangerous communicable disease to report the same within twenty-four hours to the health officer.

Familiarize yourself with the rules and regulations of the state board of health pertaining to dangerous communicable diseases.

Report regularly, each week, to the state board of health, on cards provided you.

Instruct the family on the observance of quarantine and understand contagion nearly always spreads by *contact of sick with the well*; that water and milk are frequently infected by persons suffering with disease or by persons living in homes where contagion exists. Remember *milk cannot be handled for sale* by persons living in a quarantined home. See Rule 25 in the pamphlet called "The Prevention and Control of Communicable Diseases."

The period of quarantine given in the rules and regulations of the state board of health is the minimum and if at the end of this period the patient is still manifestly sick with communicable complications the quarantine should be continued. Example—scarlet fever when the glands of the neck are still enlarged or suppurating; when the ears are still running.

Upon termination of case, before release, see that *thorough disinfection*, as provided in the rules of the state board of health, is carried out. Fumigation is not required by the state board of health.

Be consistent. Apply the rules impartially and for further information communicate with the state board of health, Madison.

The regulations on communicable disease are to be found in the pamphlet called, "The Prevention and Control of Communicable Disease," which you should obtain from the state board of health.

**Isolation of communicable diseases.** Section 143.03 provided ample authority to boards of health for the purpose of enabling them to deal effectively with smallpox or any other dangerous communicable diseases. Every board of health should be in constant readiness to meet any emergency that may occur from the presence of communicable diseases within their jurisdiction, whether originating in the locality or imported from outside. In these days of rapid transportation no locality can long remain free from the danger that some diseases may develop. Constant vigilance and preparation are therefore necessary. This section grants the local board full power to either isolate a dangerous patient and care for him at his own expense or to depopulate a neighborhood in which he may be as circumstances may require. No pains or expense should be spared in the prompt and proper management of the first case of any contagious disease which appears in any community. The observance of this rule will save much subsequent cost and suffering. The keynote of prevention is the immediate, thorough and continued isolation of those sick from communicable diseases. A quarantine simply declared amounts to little. It must be strictly enforced and maintained until all danger is past to be effective.

**Health officer's duty to a family with communicable disease.** When the local health officer puts the sign upon an infected home he often feels that his full duty has been performed. The health officer, however, has a definite responsibility to families, quarantined or placarded in *explaining the particular requirements applying to their case*. The family should be informed as to the length of time they are quarantined or placarded and the rules upon the case and such other definite facts as they wish to know. If they

## COMMUNICABLE DISEASES

break the law after being fully informed as to what is required of them, they can legally be held to blame. Some health officers leave a printed circular as to what should be done under quarantine. One of them has summarized the instructions and printed them on small cards and hands the card to the responsible head of the family when a sign or placard is placed on the home. One cannot expect a quarantined or placarded family to follow out the laws and regulations without proper instructions upon those points. The state board of health has pamphlets on communicable disease that should be of use to those quarantined or placarded. They can be obtained free of charge from the state board of health.

**Importance of sickness reports.** Each local health officer in order to render the most efficient service must require that all cases of dangerous communicable disease occurring in the district be reported to him promptly as the law requires. Unless the health officer knows of the existence of these cases he cannot effectively prevent a further spread of the disease. This is an exceedingly important provision of the law and local boards of health everywhere should see that it is strictly enforced. Any failure or neglect to report cases of dangerous communicable disease to the health officer or any attempt to conceal the presence of these diseases should result in prosecution under the provisions of section 143.04 of the statutes.

**Who shall report?** It is the duty of the attending physician or responsible head of the family where a physician is not employed, to report all cases of communicable diseases to the local health officer within twenty-four hours after the discovery of the case. All suspicious cases must be reported and treated as positive cases until a correct diagnosis can be made. It is the duty of the local health officer to report to the state board of health each week all new cases of communicable diseases occurring in his district. Postal cards are furnished for making these reports and it is very essential that the health officer mail to the state office one of these cards each week. If there are no new cases to report that fact should be stated on the card.

**Reporting by head of family.** The health officer should observe that the head of the family, or person in charge of the building, shall report if no physician is in attendance. (See Sec. 143.04 second preceding paragraph.) To be legal the health officer can present a physician's report card to the head of the family or person in charge of the building and request that it be filled out. Under the quarantine law, such a report properly filled out is prima facie evidence of the existence of communicable disease on the premises. There is a penalty for violation of the law on the part of the parent. Where the accuracy of diagnosis is in question and the health officer is a layman the board of health should employ a physician to aid the health officer.

**Isolation hospitals.** There should be an isolation hospital or an accessible place where communicable disease can be cared for in every community. Suitable hospitals under competent supervision tend to eliminate the expense of providing for nurses in the home and help to protect other members of the family from contracting disease. Hospitals of this kind are expected to have ready medical and nursing services and this is of advantage to the patient. In general, wage earners are allowed to go to work when a quarantine is removed from the home, enabling them to prevent the hardships that may sometimes occur from loss of wages.

**Transporting cases.** When it is necessary to transport a person suffering with a dangerous communicable disease from one town, village or city to another, the consent of the health officer where the patient lives and also the health officer of the town, village or city to which the patient will be transported must first be obtained. Transportation must be made by private conveyance and proper precautions exercised to prevent needless exposure of all persons who may come in contact with the patient during transit. See Rule 26 (Prevention and Control pamphlet). The health officer also may consent to removal of a quarantined person from one home to another in his own district.

**Expense of maintaining quarantine. Section 143.05-7.** All residences where a quarantinable disease exists shall be quarantined by the health officer while the disease is present and until disinfection. "The expense of maintaining quarantine, including examinations and tests for disease carriers and the enforcement of isolation on the premises shall be paid by the city, incorporated village or town upon the order of the local board of health."

If payment for taking tests of disease carriers is expected at public expense, the person taking the test must have authorization from the health officer to do so.

**Liability for care of patient. Section 143.05-10.** Expenses for necessary nurses, medical attention, food and other articles needed for the comfort of the afflicted person,



## COMMUNICABLE DISEASES

shall be a charge against him or whoever is liable for his support. Indigent cases shall be cared for at municipal expense. If he is a legal resident of another municipality of this state, the expense of care shall be paid by such municipality, or by the county where the county system for the care of the poor has been adopted, when a sworn statement of such expense is sent to the proper officers within thirty days after quarantine is removed. In counties having a population of two hundred fifty thousand or more the expense for indigents shall be paid by the municipality in which incurred.

**Quarantine signs and placards.** The courts have held that a quarantine is illegal unless the quarantine sign is properly worded and the letters in the word "QUARANTINE" or the name of the disease are not less than two inches high. A health officer must use a quarantine sign or placard that meets the requirements of the statutes. If a quarantine sign or placard is used not meeting the requirements of the statutes, the quarantine or placarding is illegal. It is important, therefore, in performing this part of your duties that you comply with the provisions of the law. Quarantine signs and placards can be had from the state board of health at actual cost of material and printing, which is one and one-half cents for each quarantine sign or placard. The local boards of health may have signs of their own printed if they wish to do so and the proper wording will be found in Statutes 143.05-3, on page 33.

**The schools and the health officer.** One of the important tasks of the health officer is to cooperate with the schools of his district. Every effort should be made to keep communicable disease and suspected communicable disease out of the school population. Rule 17 of the state board of health, which is to be found in the pamphlet, "Prevention and Control of Communicable Diseases," requires that the teacher send home anyone with suspected communicable disease or who is obviously sick and report to the health officer. The health officer should be assured that such pupils do not return to school until it is found that they do not have communicable disease. Any child with a severe cough or severe cold should be sent home and whenever measles or whooping cough is prevalent in the school or community or influenza is epidemic anyone with any grade of cold should be excluded. Such children will promptly recover without further symptoms if they do not have those troubles and can be returned. Under no circumstances should a child with an acute throat infection remain in school. A sore throat usually is the starting point of diphtheria or scarlet fever. It is well for a local board of health having a non-medical health officer to empower the health officer to make arrangements with a physician to aid him whenever it becomes necessary. The health officer should familiarize himself with Statutes 143.12 on page 37.

**Duty of parents.** Parents, guardians or other persons having control of any child who is sick in any way, or who is afflicted with any disease listed in Rule 17, shall not permit said child to attend any public, private or parochial school or to be present in any public place. Rule 18.

**School permits.** Under 143.12 (Statutes) the local health officer must sign a permit for a child returning to school after being out for communicable disease or suspected communicable disease. If a physician, who is not the health officer, signs a permit it should be with the endorsement of the health officer to be valid. Sometimes local boards of health pass additional rules and require all children out for a certain number of days to have a permit on returning to school.

The following form printed locally and used by health authorities will aid in controlling communicable disease.

## NOTICE OF DISEASE IN SCHOOL DISTRICTS

THE PRINCIPAL ..... , 19...

.....SCHOOL:  
A case of.....exists in the family of.....

For the protection of the pupils in your school you are instructed to exclude from school until further notice the following persons:

.....

.....

.....

Respectfully,  
.....  
.....  
Health Officer.

COMMUNICABLE DISEASES

PERMIT TO ATTEND SCHOOL

....., 19....  
This is to certify, That.....  
living at No..... St., is hereby permitted to  
return to school, all the rules and regulations of the board of health having been com-  
plied with.  
.....  
Health Officer.

DANGEROUS COMMUNICABLE DISEASES

The state board of health under Section 143.01, Laws of Wisconsin, is authorized to determine by rule the diseases which shall be within the term "communicable" or "dangerous communicable" as used in the statutes. These require reporting.  
The following are declared to be "dangerous and communicable diseases"; amebic dysentery, cerebrospinal meningitis (epidemic), chaneroid, chicken pox, cholera (Asiatic), diphtheria, erysipelas, gonorrhea, infantile paralysis, (poliomyelitis anterior), influenza, (in epidemic form), leprosy, lethargic encephalitis (sleeping sickness), malaria, measles, mumps, ophthalmia neonatorum, plague, pneumonia, rubella (rötheln or German measles), scarlet fever, septic sore throat in epidemic form, smallpox, syphilis, trachoma, tularemia, typhoid fever, typhus fever, tuberculosis (of any organ), undulant fever, whooping cough and yellow fever.

All reasonably suspected cases of dangerous communicable diseases shall be regarded as actual cases until proved otherwise and all rules and regulations applicable to actual cases shall be applied to them.

**Quarantine.** Quarantine prohibits anyone from entering or leaving a home except the health officer, physician licensed by the state board of medical examiners, nurse, and clergyman except by written permission of the health officer. The object of quarantine is not only to isolate the patient but all persons and substances around the patient to prevent them from carrying the disease to others.  
Cerebrospinal meningitis (epidemic), cholera (Asiatic), diphtheria, infantile paralysis, plague, scarlet fever, smallpox, typhus fever and yellow fever are the quarantinable diseases.

**Placardable diseases.** Placarding is a modified form of quarantine. The placard is a warning sign. The patient is prohibited from leaving the premises and sometimes others according to the rule for that disease. The placardable diseases are chicken pox, influenza, leprosy, measles, German measles, typhoid fever and whooping cough.

**Isolation** is the confining of persons suffering from a communicable disease or carriers of the infecting organisms in such places and under such conditions as will prevent the direct or indirect conveyance of the infectious agent to susceptible persons.

A carrier is a person who, without symptoms of a communicable disease, harbors and may disseminate the specific micro-organisms.

**Contact.** A "Contact" is any person known to have been exposed to communicable disease or infectious material and who may by reason of such exposure develop the disease.

DISINFECTION

**Cleaning** signifies the removal by scrubbing and washing of organic matter on which and in which bacteria may find favorable conditions for prolonging their life and virulence.

**Concurrent disinfection.** When a home is placarded or quarantined the health officer should instruct the family regarding the necessity for disinfecting immediately all discharges from the body of the patient and all soiled articles. If this work is properly done from day to day the danger of spreading the disease to other members of the family will be materially lessened. *If there are children in the family the parents should be instructed to keep them away from the patient on account of the danger of contact infection from associating with the sick.*



**Terminal disinfection by chemical means** is the washing of all woodwork, doors, casings, ledges, floors, furniture and other articles which may be infected, with a proper solution of an approved disinfectant.

**Terminal, disinfection by physical means** is the washing of all surfaces and articles which may be infected, with soap and water, or lye and water, applied thoroughly with a scrub brush or washcloth after communicable disease is over with.

**Excreta.** When required by these rules, all excreta leaving the patient in the discharges from the body must be disinfected at once, using six ounces of carbolic acid to the gallon of water; the milk of lime (water from freshly slaked lime), using eight parts of water to one part of lime; chloride of lime used as a powder, or other efficient disinfectant. The material to be disinfected should be left in vessel with disinfecting solution for at least one hour before emptying. Flies should never be allowed to come in contact with excreta of any kind.

**Fabrics.** The underclothing, bed linen and any materials which have in any way come in close contact with the patient must be thoroughly disinfected either by boiling or immersing in carbolic solution of two ounces of carbolic acid to one gallon of water. Fabrics which cannot be disinfected by this method must be exposed to direct sunlight for a period of three days.

**Approved disinfectants for washing and cleaning.** Carbolic acid, two ounces to a gallon of water; formaldehyde, three ounces to a gallon of water; or other disinfectant approved by the health officer. Strong soapsuds and water, if applied to all surfaces and articles which may be infected, can be used instead of chemicals unless otherwise specified, but the work must be thoroughly done under the direct supervision of the health officer or a representative of the health board.

**Sulphur prohibited.** Sulphur cannot be used for disinfection purposes after death or recovery from a dangerous communicable disease.

**Fire.** This method is absolutely sure, and is the only method to be used for the disinfection of soiled rags and papers, sputum, soiled dressings from pus cases, and bedding of little value infected with any of the pathogenic microbes. Infected articles must be burned *at once* and not allowed to accumulate.

**Boiling.** The articles are dropped into a vessel of water which is boiling. It is applicable to white goods, metal articles, tableware, and some bedding. The addition of a teaspoonful of baking soda to each pint of water makes the action more certain. The boiling temperature should be maintained for 30 minutes.

**Steam.** For disinfection by steam, an apparatus may be improvised consisting of a large washboiler with two bricks set on edge in the bottom, and short boards resting on them. A couple of inches of water is then placed in the bottom of the boiler, the infected articles are packed in loosely, the cover is put on, and the apparatus brought to the boiling point and maintained there for an hour.

This method is applicable to feathers, plumes, pillows and blankets.

**Fumigation.** Disinfection through the liberation in the infected rooms of formaldehyde gas or other similar disinfecting agents is not now required under the state regulations. If householders desire to have their premises fumigated they can do so but they must pay for the cost of materials and labor. Experience proves conclusively that disinfection by chemical means, together with thorough cleansing, is more efficient and can be accomplished at less expense.

**Costs.** Where terminal disinfection by chemical means is required under the state regulations, the chemical disinfectant *must be delivered to the family by the local health officer or his representative and paid for by the town, village or city.* The family is required to do the work of cleaning up the infected rooms under the direction of the health officer or his representative. This work must be thoroughly done before the quarantine sign can be removed from the home and the members of the family liberated. In cases where the work of cleaning up the home can be done by washing all surfaces and articles which may be infected with soap and water, or lye and water the family must be instructed by the health officer as to what is required and he should see to it that the work is properly done before the quarantine is raised or the placard removed from the home.

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**Persons.** In those diseases in which disinfection of the person is required, the entire body of the patient, including hair and beard, should first be thoroughly cleaned with soap or antiseptic soap and warm water, after which the entire body should be again bathed in clean water. The bath should be so arranged that the patient can go from the bathroom to a clean room without coming in contact with anything that has been in the sick room. In the clean room fresh clothing which has not been in contact with anything or anyone from the sick room may be put on.

**Sunlight.** Articles that can not be boiled or placed in a disinfectant solution may be spread out and exposed to direct sunlight for at least three days. In the more serious diseases mattresses and pillows that may be soaked with secretions should be burned. It is possible to save valuable mattresses and pillows by pulling them apart and sterilizing contents by steam or sunlight and boiling the covers.

**Books.** In cases where it is essential to disinfect books which may have become infected the following requirements must be followed. Library books and school books which have been in a quarantined home should be withheld from circulation until they have been exposed to direct sunlight for a period of 15 days, opened daily in such a manner that the maximum number of pages will be reached.

Books used by a tubercular person should be burned or withheld from circulation until they have been exposed to direct sunlight for a period of 30 days, open daily in such a manner that the maximum number of pages will be reached.

**Fumigation of books.** The use of formaldehyde for fumigation of books is not effective.

**Privy vaults.** Privy vaults should not be tolerated in thickly populated communities and under all circumstances they should be built water-tight and constructed in such a manner as to enable them to be easily cleaned out when necessary. The contents should not be permitted to percolate through the surrounding soil and thus endanger private water supplies. Practical and cheap disinfectants for privy vaults are the milk of lime or chloride of lime. A sufficient amount of milk of lime should be used to render the entire contents of the vault slightly alkaline. Thorough mixing of the lime and the contents of the vault is necessary. Another method is to add daily to the contents of the vault two quarts of milk of lime for each individual using the privy. Where chloride of lime is used a sufficient amount should be used to cover the entire surface of the contents of the vault. All bowel movements and other infective material from the sick room should be thoroughly disinfected before being emptied.

**Waterclosets, urinals and sinks.** These should receive continuous treatment in order to suppress bad odors and to destroy infected material. Cleanliness is required above all other modes of procedure. One per cent chloride of lime solution will be found useful in cleansing these receptacles. Frequent scrubbing of the premises with this solution will answer in most instances. Should infected material have gained access to the water-closet bowl or sinks, they should be thoroughly scrubbed with a 5 per cent carbolic acid solution or a 2 per cent chloride of lime solution. A sufficient amount of the solution should be passed into them to fill the trap completely, and there should always be a residue of from a pint to a quart of the solution in the body of the fixture. Infected material, however, should not be allowed to be thrown into these closets without being disinfected before being deposited therein.

**Stables and cellars.** When these places become infected the walls, floors, ceilings, and all objects upon which suspicion rests, should be thoroughly saturated without otherwise disturbing them with chloride of lime solution, and kept wet with it over night. In cellars, and in less elaborate stables, the walls and ceilings should be white-washed. Accumulations of manure or other offensive material should not be permitted. The ground or floor from which such material has been removed should be disinfected by covering the surface with dry chloride of lime, or by the use of the milk of lime.

## SUGGESTIONS FOR THE SICK ROOM

1. Whenever possible, persons sick with an infectious or contagious disease should be placed in a large airy room so situated as to admit plenty of sunshine. A room in an upper story is preferable and it should be isolated from the rest of the house as much as possible.



2. All carpets, curtains, rugs, pictures and other furniture not needed for use in the sick room should be removed before there is any possibility of them becoming infected. Any closet which opens into the room should be emptied before the room is used. Provisions should be made for heating the room so that an even temperature of from 68 to 70 degrees F. can be maintained.

3. The floor and woodwork should be washed daily with antiseptic soap and water. Do not dry sweep the floor or dust the woodwork.

4. The linen, sheets, pillow cases, etc., of the patient should be changed daily. Before leaving the room, they should be soaked for one hour in a five per cent solution of carbolic acid and then boiled later. Bedclothing should never leave the room in a dry condition.

5. All dishes, eating utensils, napkins, etc., after being in the sick room must be placed in an antiseptic solution and then boiled. They should not leave the room and be mixed with dishes or other material used by the rest of the family.

6. All intestinal and urinary discharges should be immersed in a five per cent solution of carbolic acid or thoroughly mixed with chloride of lime solution and allowed to stand for two hours or more.

7. All discharges from the nose, throat and ears should be collected at once on small pieces of cloth which should be placed in a paper bag or other container and burned.

8. Attendants should be completely gowned in material that can be changed and washed in an antiseptic solution or boiled, and should not leave the sick room without changing this garment and thoroughly disinfecting their hands, face and hair.

9. Remnants of food left by the sick person should be destroyed by fire.

10. The physician before entering the room should don a gown which covers all his clothing. Such gowns on being discarded should be soaked in a five per cent carbolic acid solution, and later boiled. Before mingling with other people, the physician should wash his face, hands and beard with an approved disinfectant.

11. For the disinfection and changing of clothing, a room adjoining the sick room should be provided if possible and used solely for that purpose. This room, as well as the sick room should be closed to all except the immediate attendants and physician. It should be remembered that pure air and sunlight are most valuable disinfectants and that nearly all known disease germs are quickly destroyed when subjected to the direct rays of the sun, hence, these agents should be utilized whenever possible, but it should be borne in mind that we can not depend upon these agents to the exclusion of all other methods. They should be used in connection with other methods of disinfection.

## DIPHTHERIA

**Diphtheria carriers.** A certain number of those who have diphtheria become carriers for a longer or shorter time. Sometimes the organisms persist in the throat for months after the patient is well. It is necessary, however, to keep these people isolated in order to prevent the spread of the disease.

There are a few who have never had the disease but harbor the organisms in their throats and are known as carriers. These carriers should be located so that the further spread of the disease may be prevented. Where diphtheria makes appearance in schools, cultures should be taken from the nose and throat of every child in the school and sent to the laboratory for examination. Many school epidemics may be prevented by this means.

**Free antitoxin for indigents.** Section 143.03 of the statutes states that to provide for the control of diphtheria and other contagious diseases, the local board of health of each township, incorporated village, or city shall furnish antitoxin free to all indigent persons suffering from such disease in such manner as the state board of health may direct.

If there is any failure to properly administer antitoxin to indigents through local neglect the state board of health should be promptly informed that they may order

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it given. The expense should be paid by the town and the state board of health can furnish information upon nearest places where it can be obtained. Antitoxin should be given immediately on diagnosis and failure to do so may result in a fatality.

**Dosage of diphtheria antitoxin.** An immunizing dose is one thousand units; for curative doses in light cases not involving the larynx if treatment is given on the first day of the disease, ten thousand units may be found to be sufficient. If treatment is not given until the second or third day of the disease, it is better to give twenty thousand or more units. If the disease is severe, and in all cases of diphtheritic laryngitis at least twenty thousand units should be administered. If favorable results do not follow within eight hours, the initial dose should be repeated or doubled. With refined and concentrated antitoxin giving a maximum of strength in a minimum bulk, it is better to give large doses than to risk the danger of making the dose too small.

All physicians use antitoxin. Every case of sore throat should be examined by a physician. When a clinical diagnosis cannot be made a culture should be taken and sent to one of the state or co-operative laboratories to determine if diphtheria bacilli are present. If in doubt as to diagnosis use antitoxin and use it early in the disease.

**Taking of cultures.** The state law requires all physicians to take cultures and make bacteriological examinations where the same would be of material value in making a diagnosis. All "release cultures," taken for the release of quarantined patients must be taken by or under the direction of the health officer. Tests taken for carriers upon authorization of the health officer shall be paid for by the local board of health.

**Records of diphtheria antitoxin sales.** It shall be the duty of all druggists or other persons who sell or distribute diphtheria antitoxins in this state, to report to the health officer or health board of the township, incorporated village or city, in which such drug store or other distributing station is located, within twenty-four hours all sales of diphtheria antitoxin giving the name of the person to whom sold, the name and address of the patient, and the date of sale. Such report shall be made in writing, by telephone or in person.

The druggist or other distributor shall keep a record of all sales of diphtheria antitoxin, which shall be open to examination at all reasonable hours by any health officer or other public health official. Rule 11.

**Protection by immunization.** All children in Wisconsin should be immunized against diphtheria. The local board of health should see that this immunization is routinely offered to school children. Write to state board of health for information on immunization against diphtheria. The state board of health has pamphlets to send out free of charge which can be distributed. A great saving in life has followed the general immunization of children and one of the most important duties of the health officer is to make arrangements for this procedure. Information can be obtained from the county nurse, deputy state health officer, or state board of health upon financing. The state board of health can inform the health officer where toxoid can be purchased.

## RABIES

Under Chapter 95, Wisconsin Statutes, the Department of Agriculture is given power to establish and maintain quarantine of animals. Wherever a rabid animal occurs that board is privileged to establish quarantine over a regional area. Report animals having rabies, or suspected of having rabies to the Department of Agriculture, Madison, Wisconsin.

The local board of health may also pass and print regulations upon restraining dogs when rabies is present, or the city, town or village board may pass an ordinance to that effect. The following law is upon the statute books:

**Quarantine for rabies.** Section 95.21. "Whenever any district shall be quarantined for rabies all dogs within said district shall be kept securely confined or tied or held in leash or muzzled. Any dog not so confined or tied or leashed or muzzled is declared to be a public nuisance and may be impounded; and the sheriff and his deputies and every constable, marshal, other police officer or a duly authorized humane society shall actively cooperate in rendering said quarantine effective. The clerk of every town, city or village wholly or partly within the quarantined area shall promptly post



in at least three public places in his town, city or village, such notices of quarantine as may be furnished him by the department for posting."

**Section 95.23 Inspection of premises.** "Any commissioner or any veterinarian authorized by the department or any health officer may enter upon any premises or go into any building or place, where he has reason to suspect there are diseased animals and examine and test the same, and may call to his aid, if necessary, the sheriff or any constable of the county in which such animals may be located, and all such officers when so called, shall assist in the enforcement of the provisions of the law relating to contagious and infectious diseases of animals."

**Information regarding rabies.** Rabid dogs have been known to travel long distances, thus carrying the infection to districts where no cases of rabies have been known to exist for many years. This will account for the sporadic cases which endanger other animals and the human being if muzzling or confining ordinances are not enforced.

Rabies, or hydrophobia, is an acute and fatal disease, communicated from animal to animal, or from animals to man by the bite of an animal which already has the disease. The dog is the principal factor in its spread. Cattle, sheep, goats, and sometimes the horse and swine are affected.

Whenever rabies has made its appearance in a community the prevention of hydrophobia is to be obtained by the systematic, long-continued restraining and muzzling of all dogs. In American communities the comfort of the dogs is usually rated higher than human life, and the measure is applied only half-heartedly and is often valueless. The only proper muzzle is one of wire, which allows the dog to open his mouth but prevents him from biting. Straps around the jaw do not prevent him from biting and make him very uncomfortable.

When any of the following symptoms develop, the dog should be securely chained or confined, provided with food and water and carefully watched: Changes in disposition; alteration of voice; inability to swallow; leaving home and returning in an exhausted and emaciated condition; paralysis of the jaw or other parts of the body; swallowing abnormal substances such as wood, stones, etc.

All dogs suspected of being rabid should be tied up for three weeks. If the dog shows definite symptoms it should be killed and the head sent to the laboratory. Dogs or animals killed early in the onset of the disease may not show the diagnostic sign in the brain which is necessary for a positive laboratory diagnosis. A rabid animal usually dies within ten days.

When killing a dog suspected of having rabies, it should never be shot through the head, as the brain is the part examined in making a diagnosis. The head should be severed, leaving a portion of the neck attached, packed in ice in a water-tight container and shipped express prepaid to the State Laboratory of Hygiene, Madison, Wisconsin. Always send a history of the case. Don't forget to mark your name and address on the container.

The average period of incubation of hydrophobia in dogs is from 21 to 40 days. Dogs suspected or known to be bitten by a rabid dog should be tied up for forty days.

Bites of rabid animals are best cauterized by a physician with nitric acid.

The disease can be prevented in humans by the Pasteur treatment. It can not be cured after it has made its appearance. Once the symptoms are manifest, death is certain.

If treatment is started within one week after being bitten by a rabid animal, complete protection can be practically assured in every case. See pamphlet on "Rabies" for further information. Any physician can give the Pasteur treatment.

## AN ORDER RELATING TO THE CONTROL OF RABIES

"Section 1. The board of health of the ..... of ..... hereby publishes and declares the following rules to be in force throughout the ..... of ..... with reference to rabies:

"Section 2. The board of health of the ..... of ..... hereby orders that each and every dog within the limits of the ..... of ..... shall be immediately muzzled or confined in such manner as to prevent biting or infecting any person or animal.

"Section 3. All dogs in the ..... of ..... shall be muzzled or confined for a period of at least ninety days from the date on which this order is issued.

COMMUNICABLE DISEASES

“Section 4. Any dog found at large within the limits of said ..... from the date on which this order is issued and for ninety days thereafter which is unmuzzled, shall be confined by the proper police officer and the owner or other person in charge of said animal shall be fined a sum not to exceed one hundred (\$100.00) dollars or be imprisoned in the county jail for not more than three (3) months as provided by Section 143.11 of the statutes. If the owner of any dog found at large and unmuzzled, cannot be located any peace officer or his assistant shall immediately impound or kill said dog.”

Dated at ....., Wis., this .... day of ....., A. D. 19...

.....  
.....  
.....  
Board of Health.

TUBERCULOSIS

A steady decline has occurred in the prevalence of tuberculosis in Wisconsin for many years past. The saving in life and health has been so marked as to emphasize the value of the methods taken to control the disease.

The proper place for a person with active tuberculosis is in a sanatorium. The State of Wisconsin conducts a sanatorium at Statesan, Waukesha County, and several counties conduct sanatoria of their own or in combination with other counties. Entrance to these sanatoria is attained by application to the county judge where the patient resides and payment for upkeep is by the patient or by the county and state, if the patient does not have sufficient funds.

A person with active tuberculosis who does not go to a sanatorium is required by law to take proper precautions against exposing others. He should provide himself with a sputum flask or other receptacle and the contents should be burned or disinfected. He should sleep alone, use separate eating utensils, sterilized after use, keep away from children and refrain from handling foodstuffs consumed by others. Usually the physician in charge of the case will make suitable arrangements.

Where a case exists the other members of the family should be examined periodically and if the patient goes to an institution or dies, the family should continue to be examined periodically by skin tests and x-rays. The percent of persons developing tuberculosis in exposed families is much higher than in the general public. The diagnosis of tuberculosis in its earliest stage is of prime importance for the welfare of the patient and the protection of others against the disease.

The health officer should promptly report all new cases to the state board of health on his weekly morbidity card. Under the law all suspected cases are regarded as true cases until a diagnosis to the contrary is made, and when a suspected case is reported to the health officer, he should see that the patient goes to a physician for further diagnosis. If a person with tuberculosis dies or moves the premises should be disinfected.

The health officer should take an interest in the testing of persons in his community. Testing campaigns for the discovery of tuberculosis have been conducted throughout Wisconsin. A skin test is used to discover those who have been exposed to the disease and those who have positive tests should be x-rayed to determine if they have active tuberculosis. Persons having a positive skin test and no active tuberculosis are not a danger to others.

State laws upon tuberculosis are to be found in Statutes 143.06, on page 35 of this book, and Statutes 143.08, on page 37.

In the pamphlet, "Prevention and Control of Communicable Diseases," is to be found the state board of health rules upon tuberculosis. Rule 16 of that pamphlet relates to books used by persons with tuberculosis. The deputy state health officer and county nurse can be of aid to the local health authorities in controlling the spread of tuberculosis.

VENEREAL DISEASES

Note should be taken of the fact that entire jurisdiction upon reports and complaints upon venereal disease is vested in the state board of health with the exception of those complaints involving food workers as specified in Section 143.08, page 37. With that exception, all reports and valid complaints received by the local board of health or health officer should be turned over to the state board of health for further action. In order that the law may be effectively enforced it is necessary that all persons reasonably suspected of having a venereal disease and who are not under treat-



ment by a licensed physician, should be reported to the state board of health. The law upon venereal disease is Section 143.07, to be found on page 35. That law empowers the state board of health to enact additional rules. A copy of those rules may be obtained by writing to the state board of health. These rules require superintendents, managers and physicians of charitable or correctional institutions, and sheriffs and other keepers of jails to cause an examination of all inmates suspected of having a venereal disease. Those found to be infected shall be quarantined and treated until the disease is noncommunicable, or shall sign a statement that they will take treatment under the direction of a physician to be named in the statement. For the purpose of facilitating treatment among those who can not afford it, drugs will be furnished by the state board of health to any physician who will undertake to treat such case.

## FOOD LAWS

**Foods and communicable disease.** Chapter 143.08, page 37, statutes, forbids any person with communicable disease to work upon foodstuffs to be consumed by the public and Rule 25 of the state board of health forbids the sale of milk from a home where a quarantinable disease exists and also where the placardable disease, typhoid, exists unless the milk and milk utensils are handled by someone living apart from the home.

**Milk ordinances.** The state board of health co-operating with the state department of agriculture and markets has prepared a milk ordinance that can be modified to meet most local conditions. Free copies of this ordinance may be had upon application to either of the above departments.

**Bakeries and confectionary establishments.** Statutes 97.10 to 97.24 define the sanitary requirements of establishments manufacturing bakery and confectionary products and requires them to have a license from the dairy and food division of the department of agriculture, Madison. Among other requirements the rooms shall be light, dry and airy with floors and side walls which exclude rodents and other vermin. No room containing such products shall be used as a sleeping place. Toilets shall be sanitary and clothing, utensils and products shall be kept in clean condition. In the enforcement of statutes mentioned in this paragraph the local board of health acts jointly with the department of agriculture and it is well to consult that body. The enforcement section is as follows:

**Section 97.24 Power of board of health.** "The board of health of the city, village or town in which a bakery or confectionary establishment is situated or in which the business regulated by Sections 97.10 to 97.23 is carried on may, coordinately with the department, enforce the provisions of said sections and may cause copies of the same to be printed and posted in all bakeries and places in which such business is carried on within their respective jurisdictions."

**Section 97.18.** No person shall work or be employed in or about any bakery or confectionary establishment for the manufacture of food products during the time in which a case of contagious or infectious disease exists in the house in which any such person resides and not thereafter until such house has been properly disinfected; provided that such persons may be employed if the local board of health issue a certificate in writing that no danger of public contagion or infection would result from the employment of said person in such establishment.

**97.66 Displayed food and dairy products to be covered.** (1) *In general.* The display or storing of fruits, vegetables, or other food products on the sidewalk, or outside the place of business is hereby prohibited, unless such fruits, vegetables or other food products are securely covered by glass, wood or metal cases, or inclosed in tight boxes, bags or barrels, and all such cases and containers raised at least two feet above the sidewalk. The provisions of this section shall not apply to fruits or vegetables which are peeled or skinned before being used, or which are stored in tight barrels, boxes or crates.

(2) **DAIRY PRODUCTS.** No dairy or other food product which has been prepared for eating shall be displayed or offered for sale, unless properly protected from flies, dust, dirt or other injurious contamination, by being suitably covered with a glass, wood or metal case or covering.

## COMMUNICABLE DISEASES

(3) **BAKERY OR CONFECTIONARY PRODUCTS.** No bread, confectionery, or other food product of a bakery or confectionary establishment, shall be exposed in or about such establishment so that dust of a street or other filth, flies, or other insects or vermin may settle upon it; and while such bread, confectionery or other food products of bakery or confectionary establishments are distributed in wagons, carts, baskets, boxes or other containers of such bakery or confectionary establishments, they shall be well covered and protected from dust, filth or insects, and shall not be handled in any unclean manner while being distributed.

(4) **ENFORCEMENT.** The health officer in each town, incorporated village and city shall co-ordinately with the department, its assistants, or inspectors enforce the provisions of this section.

## BIOLOGICAL PRODUCTS

The state laboratory of hygiene, Madison, prepares and distributes, free of charge, typhoid vaccine, and old tuberculin for group tuberculin testing. The laboratory also prepares nitrate of silver ampules for use in the eyes of the newborn which the state board of health distributes to the physicians, midwives, and local health officers.

### Court Decisions Relating to Communicable Diseases

**Expenses for care.** The statute did not make the public primarily liable for the expense of nurses and necessities in cases where persons were sick with infectious diseases; nor was it bound to pay the damages which a third person sustained by reason of furnishing a room for the occupancy of a patient so afflicted. *Kollock v Stevens Point*, 37 Wis. 348.

**Expenses when confined.** If persons afflicted with a contagious disease are confined in a pesthouse by the order of health officers acting under authority, such officers may employ nurses as servants of the town to take care of such persons. The statute is based upon the idea of public protection, and the power to confine carries with it the power to provide for those confined. *Labrie v. Manchester*, 59 N. H. 120.

**Health officer's liability.** A health officer without the approval of the board of health cannot bind a town by the employment of a physician to attend a person afflicted with a contagious disease. *Collier v. Town of Scott*, N. W. 102, page 909.

**Person when not a nuisance.** A person sick of an infectious and contagious disease in his own house or in suitable apartment at a public hotel or boarding house, is not a nuisance. *Boon v. City of Utica*, 2 New York 104.

**Physical examination of school children.** The supreme court of South Dakota decided that a school board has the power to require a report by a physician showing the physical condition of a child as a prerequisite to the admission of the child to school. The board of education of the city of Aberdeen, S. Dak., adopted a resolution requiring a report by a physician showing certain data regarding the physical condition of a child before that child could be admitted to the school. The necessary examination might be made by the school physician or by a physician employed by the parents. A parent refused to permit his child to undergo the examination, and claimed the right to have his child educated in the public schools although no physician's report had been made. The court held that the resolution was reasonable and that it was within the power of the school board. (*Streich v. Board of Education of Aberdeen.*)

**Muzzling of dogs.** The supreme court of New York upheld a regulation of the New York City board of health requiring that dogs must be muzzled when in public places in the city. The court said: "The possession of dogs in the city is subject to the limitation that such possession must not interfere with the security, health and comfort of the other inhabitants of the city, and the ordinances made by the proper municipal authorities for the protection of health or comfort must be accepted as limitations upon the privilege of such possession. (*Knoblauch v. Warden of City Prison.*)

**System of quarantine.** The right of a state through its proper officers to place in confinement and to subject to regular medical treatment, those who are suffering from some contagious or infectious disease, on account of the danger to which the public would be exposed if they were permitted to go at large, is so free from doubt that it had rarely been questioned. *State v. Berg*, 70 Northwestern Reporter, 347.



**Tuberculin test required.** The supreme court of the United States upheld an ordinance of the city of Milwaukee, Wis., relative to milk produced outside the city for sale within the city. The ordinance required that each person bringing or shipping milk into the city for sale should file with the city health department a certificate showing that the milk was drawn from tuberculin-tested cows. It also provided that if the provisions of the ordinance were not complied with the milk should be confiscated and destroyed. (*Adams v. Milwaukee.*)

**Typhoid fever; liability for.** Typhoid fever contracted by an employee as the result of drinking polluted water furnished by the employer is a "personal injury accidentally sustained" and "proximately caused by accident" within the meaning of Sec. 2394—3 Stat. (*Vennen v. New Dells Lumber Co.*, 161 Wis. 370.)

**Smallpox.** A person may be indicted for carrying along a public highway, a child infected with smallpox. *Rex v. Vantandillo*, 4 M. & S., 73.

### Attorney General's Opinion Relating to Communicable Diseases

**Care of indigents.** Physicians acting as health officers cannot charge town officials for professional services rendered indigent people suffering from contagious diseases unless previously authorized to render such service by the proper authorities.

**Expense of maintaining quarantine.** A person employed by the local board of health to deliver supplies to a quarantined family must be paid by the town, village or city. This is a part of the expense of maintaining quarantine.

**Responsibility for care of indigents.** A county which has adopted the county system of poor relief is chargeable with the maintenance of an indigent family quarantined by order of the local health board. The town is liable for the quarantine expenses.

**Payment for compulsory quarantine.** If a person is quarantined in a hospital by order of the local board of health, expenses are a charge upon the municipality, but if ordered to hospital by county judge, expense is paid by county.

**Cost of inoculation.** The town board may appropriate money to local board of health to be used in paying cost of inoculating people of the town against communicable diseases.

**Loss of profits by quarantine.** Loss of profits and extra expenses incurred by individual because of quarantine is not compensable.

**Responsibility for mutilation or removal of quarantine sign.** Anyone who shall mutilate or tear down any notice, quarantine sign or placard legally posted by the local health officer is liable to prosecution.

**The power to quarantine communicable diseases.** A home or other place of abode cannot be legally quarantined by the town chairman or other local officer unless such person is also the health officer or has been deputized by the health officer to do this work. The power to quarantine is vested locally in the health officer or his deputy and in him alone. If a physician's home is quarantined, he may remain as a member of the family and is subject to the quarantine that other persons are or he may live outside of the premises and simply visit it in the capacity of a physician. Those who go to and come from a quarantined home must not be inmates of the home.

**Commitment of venereally infected individuals.** A venereally infected person who refuses to take treatment until the disease is no longer communicable may be committed to a state or county institution for treatment against his own will.

**Responsibility for care and treatment of indigent persons afflicted with venereal disease.** The county is required to pay for the care and treatment of indigent persons afflicted with a venereal disease.

**Protection of physicians for reporting venereal disease.** A physician who reports to the state board of health the name of a person afflicted with a venereal disease on account of such person not continuing treatments until the disease is no longer communicable will be protected from liability, if the facts justify his action.

**Release cultures.** The expense of taking release cultures after recovery from diphtheria and the disinfection of persons and premises is a part of the expense of maintaining quarantine and must be paid for by the town, village or city.

## COMMUNICABLE DISEASES

**Establishment of quarantine rules for local boards of health.** There is nothing in the statutes to prevent the local board of health establishing a rule and giving verbal or written notice as they see fit to persons placed under quarantine, but this is a matter entirely in the discretion of the local board of health or health commissioner. The statutes do not require it.

**Exclusion from school unless vaccinated against smallpox.** When smallpox is present in any school district, it is the duty of the local board of health of the town, village or city to prohibit the attendance at school of all teachers and pupils who have not been successfully vaccinated or who fail to show a certificate of recent vaccination for a period of fourteen days after the diagnosis of the first case of smallpox in the district.

**Exclusion from school unless vaccinated.** The local board of health is not only authorized to exclude from private and parochial as well as public schools children who have not been vaccinated during an epidemic of smallpox but it is required under the state law to enforce such exclusion.

**Free smallpox vaccination in county training schools.** The city in which a county training school is located must provide for the free vaccination of pupils in such school when smallpox is present in a city. This expense is not a just charge against the county.

**Chiropractors prohibited from entering a quarantined home.** Where a residence has been placarded for influenza a chiropractor has the privilege of entering such house for the purpose of treating his patient. If the home is quarantined, a chiropractor is prohibited from entering the home.

**Chiropractors entering quarantined home must be quarantined.** A chiropractor is not privileged to disregard the quarantine of dangerous communicable diseases. If he treats persons suffering from any such disease or anyone within the quarantined premises, he must be quarantined.

**Christian Science healer not physician nor clergyman.** A Christian Science healer is not a physician nor clergyman within the meaning of section 143.05 (3); therefore is not authorized to visit quarantined places without a written permit from the local health officer.



## STATE LABORATORY OF HYGIENE

### STATE LABORATORY OF HYGIENE

(Stats. Section 36.225) (1) The state hygiene laboratory heretofore established in connection with the university is continued and shall be known as the "State Laboratory of Hygiene."

(2) The director of this laboratory shall, whenever feasible, be the professor in charge of the department of bacteriology and hygiene of the state university. A bacteriologist, a chemist and such other assistants as are found necessary to satisfactorily carry on the work of the laboratory, shall be provided by the board of regents of the state university. The director and his assistants when making investigations affecting the public health shall have the same right of inspection in regard to all matters affecting the public health as has been and may be conferred upon the state board of health.

(3) The use of this laboratory by the state board of health shall be determined by rules and regulations adopted by the director of the state laboratory of hygiene, the president of the state university, and the executive committee consisting of two members, of the state board of health.

(4) The purpose of this laboratory shall be to undertake the examination of water supplies for domestic purposes, the examination of material from the various contagious and infectious diseases, or material from suspected cases of contagious and infectious diseases of men and animals when public health is concerned; to examine into the nature and cause of disease outbreaks throughout the state; to study conditions relating to diseases and their dissemination, or any other problems that bear directly or indirectly upon the public health. The examination of water supplies shall include the establishment of a water survey of the state and shall comprehend not only the examination from a public health standpoint, but may also include the examination of water to ascertain its suitability for manufacturing and commercial purposes, as determined by the rules and regulations herein provided for.

(5) There may be established and operated in connection with the state laboratory of hygiene, an institute for the preparation of vaccine for administering the Pasteur treatment for the prevention of hydrophobia.

(6) The state laboratory of hygiene shall examine free of charge the following specimens when submitted in proper containers by licensed physicians, veterinarians, health officers and health commissioners: The sputum of all persons afflicted with tuberculosis, or suspected of being afflicted with tuberculosis, when sent in proper containers; blood from suspected typhoid fever cases (widal test), swabs from patients suspected of diphtheria for diagnosis and for the release of quarantine; rabies in man or animals, anthrax, glanders and such other examinations as may be provided for in the rules and regulations governing the use of the laboratory. The laboratory shall be used to make such studies in sanitation and hygiene as will assist in the enforcement of the health laws of the state, or aid in improving the general sanitary condition of the state.

143.07 (10). The State Laboratory of Hygiene and branch and co-operative laboratories shall make microscopical examinations for the diagnosis of gonorrhea, and the phychiatric institute the necessary examination of blood or secretions for the diagnosis of syphilis, for any physician in the state, without charge.

### Laboratory Service

The laboratory service of the State Board of Health consists of ten laboratories. Two of these laboratories are maintained solely by the state, namely, the State Laboratory of Hygiene, Madison, and the State Branch Laboratory of Hygiene at Rhinelander. The other laboratories are known as cooperative laboratories, being maintained by a cooperative plan between the city in which they are located and the state. The laboratories are located at Beloit, Green Bay, Kenosha, La Crosse, Oshkosh, Sheboygan, Superior and Wausau. By establishing these laboratories it has been possible to make the service more valuable to communities remote from Madison.

The materials examined in these laboratories which are considered most vital to public health are: Sputum for tubercle bacilli, swabs for diphtheria bacilli and other organisms, pus for gonococci and other organisms, central nervous systems of dogs and other animals for Negri bodies, diagnostic of rabies, spinal fluid for meningococci and other organisms, materials in suspected cases of anthrax, glanders, and actinomycosis,

## STATE LABORATORY OF HYGIENE

blood, feces, and urine, for the diagnosis of typhoid fever, or to detect carriers of these germs, pneumococcus infections and identification of their type, and water, chemical and bacteriological examinations, to determine its fitness for drinking purposes. In addition to these examinations, it is the aim of the state laboratory of hygiene to accommodate physicians, health officers and veterinarians whenever possible, so that many urine analyses are made, much pus is cultured for the identification of the organisms present, and autogenous vaccines are prepared when it does not interfere with the regular work of the laboratory.

In order that specimens for these various examinations may reach the laboratory in a satisfactory condition for bacteriological tests, special containers are distributed from the several laboratories to physicians, health officers and veterinarians. These containers are sent free of charge upon the receipt of a request, and a pamphlet of instructions on the use of the laboratories can be obtained from the laboratories or from the state board of health.

The laboratories make every effort to get the reports out as soon as is compatible with good, careful work. To save time the Post Office Department in Washington allows our containers to pass through the mails with all the facility that is accorded first-class matter at parcel postage rates. This means that we receive deliveries as often per day as the first-class matter is distributed. Results can be known much sooner if, when the specimens are sent, a request for a telegraphic report is made.

The service which has been described above touches the public at three very vital points. It affords for the physician, without charge to himself or the patient, laboratory aid in diagnosing obscure cases, and in making diagnosis much earlier than is otherwise possible. A convenient laboratory service assists the physician in making an early diagnosis of communicable diseases and a health officer in the prevention of the spread of this disease, and also in epidemiological work undertaken in connection with an outbreak of any communicable disease.



## CHAPTER 162.

### PURE DRINKING WATER.

162.01	Pure drinking water; powers of state board of health.	162.04	Well drilling; registration; fee.
162.02	Definitions.	162.05	Registration exceptions.
162.03	Additional powers of board.	162.06	Penalties.

**162.01 Pure drinking water; powers of state board of health.** (1) The state board of health shall, after ten days' notice of hearing in the official state paper and such other publications as it may determine, and after a public hearing, prescribe, publish and enforce minimum reasonable standards and rules and regulations for methods to be pursued in the obtaining of pure drinking water for human consumption and the establishing of all safeguards deemed necessary in protecting the public health against the hazards of polluted sources of impure water supplies intended or used for human consumption. It shall have general supervision and control of all methods of obtaining ground water for human consumption including sanitary conditions surrounding the same, the construction or reconstruction of wells and generally to prescribe, amend, modify or repeal any rule or regulation theretofore prescribed and shall do and perform any act deemed necessary for the safeguarding of public health.

(2) In the conduct of any public hearing on the establishing, amending or repealing of any such standards, rules or regulations, the state health officer or any employee designated by the board may act for the board in holding such public hearing. [1935 c. 434, 553]

**162.02 Definitions.** For the purposes of this chapter, the following definitions are hereby established:

(1) "Board" shall mean the state board of health.

(2) "Ground water" is defined to mean subsurface water supplied for human consumption.

(3) "Well" is defined to mean an excavation or opening into the ground made by digging, boring, drilling, driving or other methods for the purpose of obtaining ground water for human consumption.

(4) "Well drilling" is defined as the industry and procedure employed in obtaining ground water from a well by digging, boring, drilling, driving or other methods but not including the driving of points for the purpose of obtaining ground water. It shall also include all construction work and installation of well casings in said well involved therein for the protection of such well water against pollution.

(5) "Permit" is defined as the registration certificate issued by the state board of health to each person, firm or corporation duly registering and paying the annual permit fee to do well drilling as herein provided for.

(6) "Well driller" is defined to be any person, firm or corporation who has duly registered as such with the state board of health and shall have paid the annual registration fee and obtained a permit to construct wells as herein provided. [1935 c. 434, 553]

**162.03 Additional powers of board.** (1) The board may exercise such powers as are reasonably necessary to carry out and enforce the provisions of this chapter. It may, among other things:

(a) Employ a competent supervisor to supervise and inspect all well drilling operations and aid in the enforcement of all laws, rules and regulations governing the well drilling industry. Said board may also employ assistants, prescribe their respective qualifications and salaries and assign their duties. Except in the adoption, amendment or repeal of rules and regulations, the state health officer may act for the board.

(b) Conduct investigations and experiments for the advancement of technical knowledge and ascertain and establish the cause of ground water pollution and for the casing of wells or other means of protection, and may hold public meetings and attend or be represented at such meetings within or without the state.

(c) Enter and inspect at reasonable hours wells and equipment thereof, all water supplies for human consumption on private or public property or may order necessary corrections and repairs of construction or may order discontinuances of any well and the use of its water, if found contaminated, polluted or unfit for human consumption. It may also disseminate information relative to the construction, source and protection of such water supply.

(d) Require any well driller or other person responsible for a water supply to secure an analysis of water by the state laboratory of hygiene or branch thereof or by any labora-

## 162.04 DRINKING WATER

tory accredited by the board to establish the purity and fitness of such water for human consumption and for domestic purposes. A report of each such analysis shall be submitted to the board.

(e) Prepare and cause to be printed such codes, bulletins or other documents as may be necessary for the safety of the public health and the betterment of the industry, and furnish copies thereof to well drillers and to the public upon request.

(f) Furnish upon request of the owner of any well, or any well driller, recommendations for obtaining a safe water supply for human consumption.

(2) The board may on its own motion make investigations and conduct hearings and may, on its own motion or upon complaint in writing, duly signed and verified by the complainant, and upon not less than ten days' notice to the well driller, suspend or revoke as hereinafter provided any well driller's permit if said board has reason to believe or finds that the holder of such permit has:

(a) Made a material misstatement in the application for permit or any application for a renewal thereof.

(b) Demonstrated incompetency to act as a well driller; or

(c) Has wilfully violated a second time any provision of this chapter or any rule, regulation or order prescribed by the board.

(d) Has been guilty of any action constituting fraud, or any failure to fully comply with the specifications or terms of any contract for drilling a well.

(3) A copy of the complaint with notice of the suspension of permit, if ordered by the board, shall be served on the person complained against, and his answer thereto shall be filed, in the manner and within the time provided in subsection (3) of section 136.08, and the provisions of said subsections shall govern so far as applicable.

(4) No order revoking a permit shall be made until after a public hearing to be held before the board at the place, time and in the manner provided in section 136.09. The procedure provided in said section for notice, conduct of hearing and determination by the board shall govern so far as applicable.

(5) One year after the date of revocation or thereafter application may be made for a new permit. [1935 c. 434, 553]

**162.04 Well drilling; registration; fee.** (1) Every person, firm or corporation before engaging in the industry of well drilling in Wisconsin as herein provided shall annually before March first of each year make application to the board for registration as a well driller upon blanks prepared by the board for such purpose and shall accompany such application with the annual permit fee of ten dollars.

(2) All permits so issued shall expire on December thirty-first and shall not be transferable.

(3) Except as herein otherwise provided, no person, firm or corporation shall engage in the industry of well drilling for compensation in this state without having duly registered and obtained a permit therefor as herein provided. No permit shall be required of any person for driving, digging or otherwise obtaining ground water supply for his own personal use on real estate owned or leased by him, but such well and the work done thereon shall comply and be in conformity with law and the rules and regulations prescribed by the board.

(4) The provisions of this chapter shall not apply to the construction of wells where the water is used only for stock watering and other similar domestic purposes and is not used for human consumption. [1935 c. 434, 553]

**Note:** Some of the law applicable to well-drilling contracts is stated. *Borg v. Downing*, 221 W 463, 266 NW 182.

One who drills wells on his own land for use of lessees is not so engaged in well-drilling industry as to be subject to this section.

One who contracts to construct for compensation is not subject to this section, where he sublets actual performance of work to registered well driller, provided contractor has not advertised or held himself out as well driller. 27 Atty. Gen. 218.

**162.05 Registration exceptions.** No registration or permit to engage in the well drilling industry shall be required by competent sanitary engineers or by superintendents of waterworks systems in the preparations of plans and specifications or in supervising the installation of wells and water systems for the obtaining of supplies of ground water, but all such plans and specifications shall conform to all requirements established by the board. [1935 c. 434, 553]

**162.06 Penalties.** Any person, firm or corporation who engages in or follows the business or occupation of, or advertises or holds himself or itself out as or acts temporarily or otherwise as a well driller without first having secured the required permit or certificate of registration or renewal thereof, or who otherwise violates any provision of this chapter, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than ten dollars or more than one hundred dollars or by imprisonment



in the county jail for not less than thirty days, or by both such fine and imprisonment. Each day during which a violation continues shall constitute a separate and distinct offense, and may be punished separately. [1935 c. 434, 553]

**Note:** Statute which provides penalty of state maximum is constitutional. 26 Atty. imprisonment by stating minimum number Gen. 15.  
of years that may be imposed but does not

## **DRINKING WATER**

### **Comment**

**Functions.** To carry out the provisions of Chapter 162, under the supervision of the bureau of sanitary engineering. The aim is to aid in safeguarding the groundwater supplies of the state against dangerous pollution and to conserve such supplies through proper location and improved construction of wells supplying water for human consumption and for preparation of food products.

**Procedure.** (1) Registration of all persons, firms or corporations engaged in the construction of drinking water wells by digging, boring, drilling, driving or any other method except driving of points.

(2) Providing a uniform code of minimum standards, governing the location and construction of such wells and the installation of equipment or appurtenances therein.

(3) Make inspections and investigations on request and on own initiative as may be necessary to make for compliance with the provisions of the Wisconsin Well Construction Code.

(4) To prepare and disseminate information concerning groundwater supplies, causes of pollution and methods of protection.

**Copy of the Wisconsin Well Construction Code may be obtained by writing the State Board of Health, Division of Well Drilling.**



## CHAPTER 144.

## WATER, ICE, SEWAGE AND REFUSE.

144.01	Definitions.	144.11	Penalty.
144.02	Sanitary survey.	144.12	Limitation.
144.03	Power of state board of health.	144.51	Water pollution, definitions.
144.04	Approval of plans.	144.52	Water pollution.
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144.06	House connections.	144.54	Limitations.
144.07	Joint sewerage systems.	144.55	Visitorial powers of committee.
144.08	State health officer.	144.56	Review of orders.
144.09	Enforcement.	144.57	Penalties.
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**144.01 Definitions.** The following terms as used in sections 144.01 to 144.12 mean:

"Waters of the state" includes those portions of Lake Michigan and Lake Superior bordering upon Wisconsin, and all lakes, bays, rivers, streams, springs, ponds, wells and bodies of surface or ground water, natural or artificial within the state or its jurisdiction.

"Sewage," the water carried wastes created in and to be conducted away from residences, industrial establishments, and public buildings as defined in section 101.01 of the statutes, with such surface or ground water as may be present.

"Waterworks," or "water system," all structures, conduits and appurtenances by means of which water is delivered to consumers except piping and fixtures inside buildings served, and service pipes from building to street main.

"Water supply," the sources and their surroundings from which water is supplied for drinking or domestic purposes.

"Sewerage system," all structures, conduits and pipe lines by which sewage is collected and disposed of, except plumbing inside and in connection with buildings served, and service pipes from building to street main.

"System or plant" includes water and sewerage systems and sewage and refuse disposal plants.

"Refuse," all matters produced from industrial or community life, subject to decomposition, not defined as sewage.

"Owner," the state, county, township, city, village, corporation, firm, company, institution, or individual owning or operating any water supply, sewerage or water system or sewage and refuse disposal plant.

**144.02 Sanitary survey.** (1) The state board of health is authorized to act with the United States geological survey in determining the sanitary and other conditions and nature of the natural water supplies of the state of Wisconsin, such water survey to have for its objects:

(a) To determine the nature and condition of the unpolluted natural water supplies of the state.

(b) To determine to what extent the natural waters are being contaminated by sewage from cities.

(c) To determine to what extent the natural waters are being polluted by industrial wastes, and in what way these wastes might be utilized for beneficial purposes.

(d) To investigate water-borne diseases.

(e) To assist in determining the best source of water supplies.

(2) The state board of health is hereby empowered and instructed to make the necessary rules and regulations, in conjunction with the United States geological department, to carry this section into effect.

**144.03 Power of state board of health.** (1) The state board of health shall have general supervision and control over the waters of the state, drainage, water supply, water systems, sewage and refuse disposal, and the sanitary condition of streets, alleys, out-houses, and cesspools, insofar as their sanitary and physical condition affects health or comfort.

(2) It shall investigate all water or ice supply and all systems or plants and keep complete records of such investigations.

(3) If the board finds that a system or plant is tending to create a nuisance or menace to health or comfort, it shall order the owner or the person in charge to secure such operating results as the board shall prescribe, within a specified time. If the order is not complied with, the board may order designated changes in operation, and if necessary, alterations or extension to the system or plant, or a new system or plant.

(4) If the board find that the water supply for any public or private ice supply is, or is likely to become, dangerous to health or comfort it shall order said water supply for ice closed, or that such devices be installed or measures instituted as will remedy the condition.

(5) It may conduct investigations and experiments in the purification of water and the treatment of sewage or refuse, hold public meetings, and attend or be represented at such meetings inside or outside the state. The board, upon request, and without charge for service or expense, shall consult with and advise owners having installed or about to install systems or plants, as to the most appropriate water supply and the best method of providing for its purity, or as to the best method of disposing of sewage or refuse, with reference to the existing and future needs of all communities or persons which may be affected thereby. The board shall not be required to prepare plans.

**144.04 Approval of plans.** Every owner within the time prescribed by the board, shall file with the board a certified copy of complete plans of a proposed system or plant or extension thereof, in scope and detail satisfactory to the board, and, if required, of existing systems or plants, and such other information concerning maintenance, operation and other details as the board requires. Material changes with a statement of the reasons shall be likewise submitted. Before plans are drawn a statement concerning the improvement may be made to the board and the board shall, if requested, outline generally what it will require. The board shall examine plans and conditions without delay, and, as soon as possible approve or disapprove or state what it will require. Approval may be subject to modification by the board upon due notice. Construction or material change shall be according to approved plans only.

**144.05 Sewage drains.** (1) When any city or village shall construct a sewerage system complying with section 144.04 the outflow from such system may be discharged into any drain constructed pursuant to law.

(2) The city or village or the owner of land through which the drain is constructed may apply to the circuit court of the county in which the land is located to determine the damages, if any. No injunction against the use shall be granted until the damages are finally determined and payment refused. Unless within six months after the system is completed the owner of the land shall institute such proceedings he shall be barred. The proceeding shall be according to chapter 32 of the statutes, so far as applicable.

**144.06 House connections.** Any city or incorporated village having systems of waterworks and sewerage may by ordinance require buildings used for human habitation and located adjacent to a sewer and water main, or in a block through which the systems extend, to be connected therewith in manner prescribed by the board of health or by the board of public works where such board exists. If any person fails to comply for more than ten days after notice in writing the municipality may cause connection to be made, and the expense thereof shall be assessed as a special tax against the property. Except in cities of the first class, the owner may, within thirty days after the completion of the work file a written option with the city or village clerk stating that he cannot pay such amount in one sum and asking that it be levied in not to exceed five equal annual instalments, and the amount shall be so collected with interest at the rate of six per cent per annum from the completion of the work. The unpaid balance to be a special tax lien.

**Note:** Words "building used for human habitation" in this section include buildings where human beings are in need of sewerage and waterworks. 22 Atty. Gen. 923.  
such as stores and other places of business

**144.07 Joint sewerage systems.** (1) The state board of health may require the sewerage system, or sewage or refuse disposal plant of any town, village or city, to be so planned and constructed that it may be connected with that of any other town, village or city, and may, after hearing, upon due notice to the municipalities order the proper connections to be made.

(2) When one municipality renders service to another under this section, reasonable compensation shall be paid. The officials in charge of the system, of the municipality furnishing the service shall determine the reasonable compensation and report to the city clerk who shall, on or before the first day of August of each year, certify it to the clerk of the municipality receiving the service. This clerk shall extend the amount on the tax roll, and when collected it shall be paid to the treasurer of the other municipality; if, due to delay in determination, such sum cannot be extended on the tax roll of any particular year, it shall be extended as soon as possible.

(3) If the governing body of any municipality deem the charge unreasonable, it may by resolution within twenty days after the filing of the report with its clerk,

(a) Submit to arbitration by three reputable and experienced engineers, one chosen by each municipality, and the third by the other two. If the engineers are unable to agree, the vote of two shall be the decision. They may affirm or modify the report, and shall submit their decision in writing to each municipality within thirty days of their appointment unless the time be extended by agreement of the municipalities. The decision shall



## 144.07 WATER, ICE, SEWAGE

be binding. Election to so arbitrate shall be a waiver of right to proceed by action. Two-thirds of the expense of arbitration shall be paid by the municipality requesting it, and the balance by the other.

(b) Commence an action in the circuit court of the county of the municipality furnishing the service to determine the compensation. The complaint shall be served with the summons, the action shall have precedence over any different civil cause except actions wherein the state or a department of state government is a party, and the court shall always be deemed open for trial thereof, and the same shall be tried and determined as other civil actions. Either party within thirty days after service of a copy of the judgment may appeal to the supreme court as in other actions. If judgment is that reasonable compensation is a sum equal to or greater than the sum certified the costs shall be paid by the plaintiff, otherwise by the defendant.

(4) (a) Any two adjoining municipalities not wishing to proceed under subsection (2) may jointly construct, operate and maintain a joint sewerage system, inclusive of the necessary intercepting sewers and sewerage treatment works. Such joint action shall be carried out by a sewerage commission consisting of one member appointed by each of the governing bodies of such municipalities and a third member to be selected by the two members so appointed, or in lieu thereof said commission may consist of two members appointed by the governing body of each municipality and a fifth member to be selected by the four members so appointed.

(b) 1. Where such commission shall consist of three members, the members chosen by the two members first appointed shall serve for two years, while the members appointed by the governing bodies of the two municipalities shall serve for terms of four and six years, respectively, the length of term of each to be determined by lot. All subsequent appointments, except for unexpired terms, shall be for six years. All such members shall serve until their successors shall have been appointed and shall have qualified.

2. Where such commission shall consist of five members, the member chosen by the four members first appointed shall serve for one year, while the members appointed by the governing bodies of the two municipalities shall serve for terms of two, three, four and five years respectively, the length of terms of each to be determined by lot. All subsequent appointments, except for unexpired terms, shall be for six years. All such members shall serve until their successors shall have been appointed and shall have qualified.

(c) The commissioners shall project, plan, construct and maintain in the district comprising the two municipalities intercepting and other main sewers for the collection and transmission of house, industrial and other sewage to a site or sites for disposal selected by them, such sewers to be sufficient, in the judgment of the commissioners, to care for such sewage of the territory included in such district. The commissioners shall project, plan, construct and operate sewage disposal works at a site or sites selected by them which may be located within or outside of the territory included in the district. The commissioners may also project, plan, construct and maintain intercepting and other main sewers for the collection and disposal of storm water which shall be separate from the sanitary sewerage system. The commissioners may employ and fix compensation for engineers, assistants, clerks, employes and laborers, or do such other things as may be necessary for the due and proper execution of their duties.

(d) Such commission shall constitute a body corporate by the name of "(Insert name of municipalities) Sewerage Commission," by which in all proceedings it shall thereafter be known. Except as provided in this subsection the commissioners shall have the power and proceed as a common council and board of public works in cities in carrying out the provisions of paragraph (c) of this subsection. All bond issues and appropriations made by said commission shall be subject to the approval of the governing bodies of the respective municipalities.

(e) Each such municipality shall pay for its proportionate share of such sewerage system, including additions thereto, and also its proportionate share of all operation and maintenance costs as may be determined by the commission. Each municipality may borrow money and issue municipal obligations therefor, for the construction, erection, enlargement and extension of a joint sewage disposal plant or system, and to purchase a site or sites for the same. Each municipality may, if it so desires, proceed under subsection (22) of section 66.06 in financing its portion of the cost of the construction, operation, and maintenance of the joint sewage disposal plant or system.

(f) Either of such municipalities being aggrieved by the determination of the commission on matters within its jurisdiction may appeal to the circuit court of the county in which such aggrieved municipality is located as provided in paragraph (b) of subsection (3). [1935 c. 460]

**Note:** For power to issue municipal bonds under (4), see note to 62.04, citing Behnke v. Neenah, 221 W 411, 266 NW 781.

**144.08 State health officer.** Except in the adoption of rules and regulations, the state health officer may act for the state board of health under this chapter.

**144.09 Enforcement.** Records required by the board shall be kept by the owners and the board supplied with certified copies and such other information as it may require. Agents of the board may enter buildings, structures and premises of owners supplying the public or industrial plants with water, ice, sewerage systems, sewage or refuse disposal service and private properties to collect samples, records and information, and to ascertain if the rules and regulations and orders of the board are complied with. The attorney-general shall assist in the enforcement of this chapter.

**144.10 Appeal from board.** An owner may elect to arbitrate or may bring action against the board in the circuit court for Dane county to determine the necessity for and reasonableness of any order of the board. The provisions of subsection (3) of section 144.07 shall apply, including affirmation or modification, but excepting the twenty-day limitation. Taxable costs shall be in the discretion of the court.

**144.11 Penalty.** If an owner fail to comply with an order within the time specified or in case of appeal, within twenty days after final judgment, or to in good faith begin to obey, such owner is declared to be creating a public nuisance enjoined under section 280.02, and shall forfeit to the state not less than ten nor more than five thousand dollars for each day such failure continues, to be recovered by the state in civil action brought by the attorney-general, and paid into the general fund.

**144.12 Limitation.** Nothing in this chapter shall be construed to affect the provisions of sections 196.01 to 196.79 or of chapter 31 of the statutes.

**144.51 Water pollution, definitions.** As used in sections 144.51 to 144.57 the following terms mean:

(1) "Surface waters" include all lakes, rivers and water courses within the state.

(2) "Industrial wastes," liquid or other wastes resulting from any process of industry, manufacture, trade or business or the development of any natural resource.

(3) "Other wastes" include decayed wood, sawdust, shavings, bark, lime, sand, ashes, offal, oil, tar, chemicals and all other substances, except industrial wastes and sewage, as this latter term is defined in section 144.01, which pollute any of the surface waters of the state.

(4) "Pollution," the contamination or rendering unclean or impure, injurious to the public health, harmful for commercial or recreational use, deleterious to fish or animal or plant life of the waters of the state.

**144.52 Water pollution.** (1) **COMMITTEE.** The committee on water pollution shall consist of the state chief engineer, a member or other representative of the public service commission designated by the commission, a conservation commissioner or an employee designated by the conservation commission, the state health officer, or a member of the board of health, designated by the board, and the state sanitary engineer, or other engineer appointed by the state board of health.

(2) **EXECUTIVE OFFICER.** The state board of health shall designate one of its representatives to be the secretary and executive officer of the committee, and shall be the administrative agent for the committee on water pollution. It shall make such inspections, conduct such investigations and do such other acts as may be necessary to carry out the provision of this act; within the limits of the appropriation made for this purpose. The executive officer shall have all of the powers conferred by law upon the committee, except that of enacting the general orders and rules and the regulations provided for in subsection (4) of section 144.53, subject, however, to the general direction of the committee and rules and regulations which it may adopt.

(3) **COMMITTEE MEETINGS.** The committee on water pollution shall meet regularly in January and July of each year, and special meetings may be held at any time or place, as agreed upon by the committee, or upon call of the state board of health, the state health officer or of any three members of the committee, to take up any matter within its jurisdiction. [1931 c. 184; 1933 c. 159 s. 27]

**144.53 Duties of committee on water pollution.** It shall be the duty of the committee on water pollution and it shall have power, jurisdiction and authority:

(1) To exercise general supervision over the administration and enforcement of all laws relating to the pollution of the surface waters of the state.

(2) To study and investigate all problems connected with the pollution of the surface waters of the state and its control and to make reports and recommendations thereon.

(3) To conduct scientific experiments, investigations and research to discover economical and practicable methods for the elimination, disposal or treatment of industrial wastes to control pollution of the surface waters of the state. To this end the committee may co-operate with any public or private agency in the conduct of such experiments, in-



#### 144.54 WATER, ICE, SEWAGE

vestigations and research and may receive on behalf of the state any moneys which any such agency may contribute as its share of the cost under such co-operative arrangements.

(4) To issue general orders, and adopt rules and regulations applicable throughout the state for the installation, use and operation of practicable and available systems, methods and means for controlling the pollution of the surface waters of the state through industrial wastes, refuse and other wastes. Such general orders, rules and regulations shall be issued only after an opportunity to be heard thereon shall have been afforded to interested parties and shall take effect as directed therein, which shall be not less than thirty days after publication in the official state paper.

(5) To issue special orders directing particular owners to secure such operating results toward the control of pollution of the surface waters as the committee may prescribe, within a specified time. If such results are not secured in the specified time, the committee may direct the owner to use or adopt designated systems, devices and methods for handling industrial wastes, refuse and other wastes within a specified time.

(6) To make investigations and inspections to insure compliance with any general or special orders, rules and regulations which it may issue. In the exercise of this power the committee may require the submission and approval of plans for the installation of systems and devices for handling, treating or disposing of industrial and other wastes.

(7) To enter into agreements with the responsible authorities of other states, subject to approval by the governor, relative to methods, means and measures to be employed to control pollution of any interstate streams and other waters and to carry out such agreement by appropriate general and special orders. This power shall not be deemed to extend to the modification of any agreement with any other state concluded by direct legislative act, but, unless otherwise expressly provided, this committee shall be the agency for the enforcement of any such legislative agreement.

**144.54 Limitations.** Nothing in sections 144.51 to 144.57 shall be construed to limit or modify in any manner the powers and duties of the state board of health under sections 144.01 to 144.12, or to interfere with its power to select, employ and direct the sanitary engineer and all other employes of its bureau of sanitary engineering.

**144.55 Visitorial powers of committee.** Every owner of an industrial establishment shall furnish to the committee on water pollution all information required by it in the discharge of its duties under section 144.53. Any member of the committee and any employe of the bureau of sanitary engineering may enter any industrial establishment for the purpose of collecting such information, and no owner of an industrial establishment shall refuse to admit such member or employe. Any member of the committee shall have power for all purposes falling within its jurisdiction to administer oaths, issue subpoenas, compel the attendance of witnesses and the production of necessary or essential data.

**144.56 Review of orders.** Any owner or other person in interest may secure a review of the necessity for and reasonableness of any general or special order of the committee on water pollution in the following manner:

(1) They shall first file with the committee a verified petition setting forth specifically the modification or change desired in such order. Upon receipt of such a petition the committee shall order a public hearing thereon and make such further investigations as it shall deem advisable. Not more than thirty days after the filing of the petition the committee shall affirm, repeal or change the order in question.

(2) If dissatisfied with the determination made by the committee upon any such petition, any party in interest may commence an action in the circuit court of Dane county against the committee on water pollution, which shall be tried and determined as other civil actions. From any judgment in such action either party may appeal to the supreme court within thirty days.

(3) In lieu of the remedy provided in subsection (2) any owner may agree in writing to submit the matter to the arbitration of three reputable and experienced sanitary engineers, one chosen by the owner, one by the committee on water pollution and the third by the other two. The decision of such arbitrators shall be rendered in writing within thirty days after their selection, unless the time be extended by agreement, but no decision shall be binding unless agreed to by all of the arbitrators. All expenses of arbitration shall be paid by the owner applying therefor.

**144.57 Penalties.** Any person who shall violate any of the provisions of sections 144.51 to 144.57, or who shall fail, neglect or refuse to obey any general or special order of the committee on water pollution lawfully issued pursuant to section 144.53, shall forfeit and pay into the state treasury a sum of not less than ten nor more than one hundred dollars for each violation, failure or refusal. Each day of continued violation shall be deemed a separate offense.

### Comment

The function of the bureau of sanitary engineering is to execute Chapter 144 of the laws published herewith, referring to public water supplies, sewerage, industrial waste and refuse disposal. This law was originally enacted by the 1939 Legislature and became effective July 1st of that year. The bureau of sanitary engineering, however, was organized and commenced functioning in its present capacity September 1, 1919. Its powers and duties are clearly set forth in Chapter 144 referred to above and will not be outlined in detail here. Briefly stated, however, it is the aim of this bureau to secure and maintain a pure and wholesome water supply, also safe and adequate sewerage, waste and refuse disposal for every municipality and community in the state. The bureau is required to maintain general supervision over public bathing places. The procedure is as follows:

- (1) To make inspections and investigations where definite complaints are made regarding the sanitary quality of water supplies, sewerage, waste or refuse disposal.
- (2) To make suggestions, assist and cooperate in the development of water and sewerage facilities for municipalities upon request.
- (3) To carefully examine and pass upon all plans for water supplies and sewerage, waste or refuse disposal, and public swimming pools.
- (4) To make routine inspections of water and sewerage systems and prepare reports thereon with recommendations regarding improvements.
- (5) To prepare and distribute information regarding effective operation and proper maintenance of water supplies, sewerage and refuse disposal plants, and swimming pools and other public bathing places.

### Procedure of Municipalities in Development and Maintenance of Waterworks and Sewerage

Because of numerous requests regarding the development of waterworks and sewerage for municipalities, the procedure that should be followed is outlined below. The numbers given refer to sections of the 1935 Wisconsin statutes, which should be followed in detail in carrying out any project.

**Authorization.** Waterworks may be constructed, acquired, or leased after favorable referendum vote by cities, villages, or towns [66.06 (8)]. Also constructed by town sanitary district [60.306 (2)]. Sewerage systems, or modifications and additions to existing systems may be constructed by cities [62.18 (1)], villages [61.45], towns [60.18 (12), 60.64], and town sanitary districts [60.306 (2)]. Intercepting sewers and treatment plants may be constructed by metropolitan sewerage districts [66.20 (10)], and by joint sewerage districts [144.07 (4) (c)]. Property for the construction of waterworks or sewerage may be condemned by cities [62.22 (1) (2)], villages [61.34 (3)], towns when acting as villages [60.18 (12)], and for sewerage only by metropolitan sewerage districts [66.20 (11) (h)]. Storm sewers may be constructed by cities [62.18 (18)], villages [61.69], towns [60.18 (12)], town sanitary districts [60.306 (2)], metropolitan sewerage districts [66.20 (10)], and joint sewerage districts [144.07 (4) (c)].

**Plans.** Plans for either new waterworks and sewerage systems, or for modifications and additions to existing systems, shall be prepared by a competent engineer under the direction of the governing body of the municipality or district. A public hearing after ten days publication must be held upon plans for sewers in order that owners of property affected may enter objection. Final plans of either waterworks or sewerage, after adoption by the governing body, must be submitted in triplicate to the state board of health for approval. One copy of the approved plans must be filed with the clerk of the municipality or district, and of sewerage one filed with the register of deeds. A final plan of sewerage on file for nine months is conclusive evidence of regular proceedings. Plans may be revised by three-fourths vote of the council or board, after which procedure must be had as for new plans [62.15 (2), 62.18 (2) (3) (4) (5) (6) (7) (8), 66.20 (10), 144.04].

**Financing.** The cost of waterworks, either original installations, improvements or extensions, may be covered by a general bond issue payable by taxes in cities [67.04 (2) (c) (e)], villages [67.04 (4)], towns [66.06 (9)], and town sanitary districts [60.307 (1)]. Front foot assessments, not to exceed one-half the cost of a six inch main which cannot



be repeated, may be charged by cities [62.19 (2) (4) (7)] and towns [60.63]. Villages may assess in proportion to benefits in the manner providing for pavements [61.70]. New waterworks systems, or modifications and extensions to existing systems, constructed or acquired, may be financed with mortgage bonds or mortgage certificates secured by the utility itself and paid for out of income derived therefrom, by cities, villages, or towns [66.06 (9)]. Also by town sanitary districts [60.307 (9)]. Interest shall not exceed 6 per cent. Mortgage bonds may be issued for not to exceed 40 years and certificates 5 to 20 years. Utility districts may be established in third and fourth class cities and villages by a three-fourths vote of the council or board and in towns by a majority vote of the board. Procedure shall be as in section 62.18 for sewerage and funds raised by taxing property within the district only [66.06 (15)].

Sewerage, either original installations, improvements or extensions for cities, villages, or towns, when acting as villages, may be paid for by a municipal bond issue [67.04 (2) (4)], a front foot assessment of twenty-five cents to two dollars per front foot, a sewer district tax in proportion to benefits or by any combination of these three methods except that the front foot assessment must be used in connection with a sewerage district tax [62.18 (9), Opinion Atty. Gen'l]. In town sanitary district a similar procedure is indicated [60.307 & 60.309]. Procedure in special assessments is as in section [62.16(6)] for pavements. A district tax of not to exceed one and one-half mills may be levied for extensions or improvements to any sewer system [62.18 (16)]. Intercepting sewers and treatment plants, either original installations or modifications or additions thereto may be paid for by mortgage bonds or certificates secured by such structures and paid for out of income derived from sewer service charges in cities, villages, and towns [66.20], and in town sanitary districts [60.306 (5), 60.307 (9)]. A tax of not to exceed  $\frac{1}{4}$  per cent may be levied by any city, village or town for a period of not to exceed five years for planning, constructing or extending sewerage, providing plans have been previously prepared and advertised and a referendum vote passed [62.18 (17)].

Municipalities included in a joint district governed by a joint sewerage commission may finance improvements in accordance with the procedures outlined above, each municipality acting independently in raising the funds [144.07 (4) (e)].

Where there are assessments for either waterworks or sewerage directly against the property, they may be paid for by certificates against the property or by special improvement bonds or the proceeds from a sale thereof [66.20—62.21]. Provision is made for an adjustment of front foot assessments against corner or irregular lots [62.18 (9) (10) —61.42 (4)].

Municipal bonds for waterworks and sewerage are issued and money is borrowed in the same manner as for other purposes [Chap. 67]. A referendum vote must be held on bond issues for villages and towns also for cities upon petition of 10 per cent of the voters. Bonds are limited by constitutional limitation which provides that municipal indebtedness shall not exceed 5 per cent of the assessed valuation. School bonds, however, are not included in this limitation where the boundaries of the district are not coextensive with the city or village since the school district then becomes a separate municipality. [Opinion Atty. Gen'l]. Special improvement bonds secured by the property benefited and mortgaged certificates on the utility when acquiring a utility not already owned by the municipality are not considered municipal liabilities [66.06 (9) (b) *State ex rel Morgan Atty Gen'l against City of Portage*, 174 Wis. 588].

Village taxes for municipal purposes (exclusive of county, state and federal taxes) are limited to 2 per cent of the assessed valuation [61.46]. This, however, does not include school taxes [Opinion Atty. Gen'l]. City taxes are limited to a total of 3.5 per cent (including county, state and federal taxes) exclusive of school taxes and to 4.3 per cent including school tax except where the school district is not coextensive with the city when no part of the school tax is considered a city tax [62.12 (4) Opinion Atty. Gen'l].

**Contracts.** Bids must be received for work costing over \$500, must be advertised for two weeks and must be accompanied with a bond equal to the amount of the bid or, by resolution of the council or board, with a certified check equal to 5 per cent of the bid, to assure entering the contract [62.15, 61.55]. Cities [62.15 (5)] and villages [62.54] by a two-thirds vote of the council or board may reject all bids and construct the work directly by the municipality. A city council, however, by a three-fourths vote of all the members-elect may provide by ordinance that all public work or any part thereof may be done directly by the city without submitting the same for bids. [62.15].

**Extensions and service connections.** Cities shall lay water mains and service laterals before paving. The cost of mains is paid as for other extensions and of service laterals is charged against the adjacent property [62.16 (8) 62.19 (5)—62.18 (14)]. Villages may

## **WATER, ICE, SEWAGE**

make similar requirements, but the property owner must be given opportunity to install his own service lateral, a requirement not necessary in cities [61.42 (1) (2) (3)]. Water services may be extended outside the limits of any municipality [61.34 (33)—66.06 (12)].

City and villages may by ordinance require connection with waterworks or sewerage and if owner fails to make connection, municipality may do the work and tax cost against the property [62.18 (15) 144.06]. No person is allowed to break into or connect with any public or private sewer without proper permit [4442-1].

**Management and operation.** Municipal waterworks must be managed and controlled by a nonpartisan commission elected by the board or council, except that cities of the third and fourth class may provide that the board of public works act in lieu of such commission [66.06 (10) (11)]. General supervision regarding sanitary condition of all waterworks and sewerage systems is vested in the state board of health either regarding installation of new systems, material extensions or alterations in existing systems or the operation of the plants [Chapter 144].

Sewer service charges may be established by the governing body of any city, village or town [66.06 (22) (j)], town sanitary district, [60.306 (5)], and by metropolitan sewerage districts [66.20 (15)] for operation, maintenance, repairs and depreciation of any sewerage system.

Mortgage bonds financing extension of municipal sewage system which pledged property and income of entire system, as authorized by statute (see. 66.06 (9) and 22, Stats. 1933), held not a municipal indebtedness included in constitutional debt limitation. *Payne v. Racine*, 217 W 550, 259 NW 437.

**Private installations.** Municipalities may grant franchise or contract for not to exceed ten years for water service with private corporations, [66.06 (1) (2) (3) (4) (7)] or they may sell or lease a utility to a private corporation after the agreement is passed upon by the public service commission [66.06 (13)].

General control over private sewerage systems within the corporate limits is also given to the municipal officials [61.34 (22)].

**Metropolitan sewerage districts.** Section 66.20 provides that sewerage districts may be created, governed and maintained in contiguous territory containing two or more of any of the following municipalities; any city or village in its entirety or any township or part thereof when so situated that common outlet sewers or disposal plants will be conducive to the preservation of public health.

**Town sanitary districts.** Sections 60.30 to 60.309 provide for the creation of sanitary districts for establishment of waterworks, sewerage and refuse disposal systems in towns where such facilities are not available from any city or village.

**Joint sewerage commissions.** Section 144.07 (4) provides for the creation of a joint commission by two adjoining municipalities for the construction, operation, and maintenance of a joint sewerage system, inclusive of necessary intercepting sewers and sewage treatment works.

## **Committee on Water Pollution**

The 1927 legislature created a water pollution committee. This is composed of the state chief engineer, member or representative of the public service commission designated by the commission, the conservation commissioner or one of his employes whom he may designate to represent the conservation commission, the state health officer or a member of the board of health designated by the board, and the state sanitary engineer or other engineer appointed by the state board of health. The powers and duties of this water pollution committee (144.53 (1) (2) (3) (4) (5) (6) (7)) are reviewed on page 62. The state board of health through the sanitary engineering division is the administrative agency on water pollution.

## **Bathing Place Sanitation**

The state board of health has established certain definite requirements to be met in the construction, operation, and maintenance of swimming pools and other public bathing places. Recommended standards for swimming pools are set forth in the Wisconsin swimming pool and recreational bathing code, copies of which may be obtained on request from the state board of health.



## Regulations Governing the Sanitation, Safety and Cleanliness of Public Bathing Places

Adopted by the State Board of Health, July 31, 1931

**Section 1. Definitions.** (a) Public bathing places shall be construed in these regulations to include any place open to the public for swimming or recreational bathing, together with shores, buildings, equipment and appurtenances pertaining thereto, irrespective of whether a fee is charged for the use thereof.

(b) Bathing places are classified as follows: 1. Natural lakes, ponds, rivers and streams. 2. Outdoor pools which are partly artificial and partly natural in character. 3. Outdoor or indoor pools which are entirely of artificial construction.

**Section 2. Supervision.** (a) Registration. All public bathing places shall be registered with the state board of health and such local health authority as the state board of health may designate. Registration blanks will be furnished by the state board of health and will provide for the filing of a full and complete description of the bathing place and the method of operation. All plans and specifications for the proposed public bathing places and for alterations or improvements in existing public bathing places shall be submitted to the state board of health in duplicate for approval, and approval in writing of same shall be secured from the state board of health before construction work is begun. Copies of all plans and specifications submitted under this section shall be kept on file in the bureau of sanitary engineering as a permanent record.

(b) Inspection. All public bathing places shall be open for inspection by representatives of the state board of health and by properly authorized health officials at all times when the bathing place is in operation. Health officers shall have the power to order reasonable changes relative to improving the operation and sanitary conditions of public bathing places, and if deemed necessary, to close such bathing place until the conditions are approved by the state board of health.

**Section 3. Establishment and construction.** Public bathing places shall be established and constructed in such locations and such manner as may be prescribed by the state board of health to safeguard properly the health and safety of users thereof.

**Section 4. Operation.** (a) Rules. Public bathing places shall be operated in accordance with such rules as the state board of health may prescribe to adequately protect the health, safety and welfare of the users thereof. The state board of health recommends and approves a type of poster setting forth the bathing place regulations and rules of conduct, which should be prominently displayed in dressing rooms and in several conspicuous places about the premises.

(b) Attendant. Every public bathing place shall be under the supervision of a competent operator or lifeguard who shall require careful observance of sanitary regulations.

**Section 5. Water.** The sanitary quality of water supplied to or in public bathing places shall at all times meet such requirements or standards of quality as may be established by the state board of health.

**Section 6. Records.** The owner of any public bathing place shall keep such records of operation and other information as the state board of health may specify and shall submit copies of such records and information to the state board of health when and as directed by the said board of health.

## Court Decisions Relating to Water Supply

**Liability for.** Decisions where courts have upheld liability for sickness on account of furnishing impure water: *Carnavan v. City of Mechanicsville*, 128 Northeastern Reporter, 882; New York Court of Appeals, *Stubbs v City of Rochester*, 124 Northeastern Reporter, 137; Minnesota Supreme Court, *Keener v. Mankato*, 129 Northwestern Reporter, 158; New Jersey, *Jones v. Mt. Holly Water Company*, 93 Atlantic Reporter, 860, and Wisconsin Supreme Court, *Green v Ashland Water Company*, 77 Northwestern Reporter, 722.

Typhoid fever contracted by an employee as the result of drinking polluted water furnished by the employer is a "personal injury accidentally sustained" and "proximately caused by accident" within the meaning of Sec. 2394-3 Stat. *Vennen v New Dells Lumber Co.*, 161 Wis. 370.

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Municipality held not liable for unexpected killing of fish in fish pond on cleaning water reservoir. *Lund v. Salt Lake County*, Utah Supreme Court, 200 Pac. 310.

**Potential pollution.** Use as cemetery of land near water supply restrained. *Town of Cheektawaga v. Sts. Peter and Paul Greek Russian Orthodox Church*, Buffalo, N. Y., 205 N. Y. Supp. 334.

**Pollution enjoined.** Pollution of a public water supply in Pennsylvania by mine wastes enjoined. *Penn. R. Co. v. Sagamore Coal Co.*, (1924), 126 Atl. 386.

### Relating to Sewerage

**Lack of sewerage.** Municipal corporation is liable for nuisance caused by neglecting to provide proper sewerage, *Smith v. Milwaukee*, 18 Wis. 63, *Harper v. Milwaukee*, 30 Id., 365, and cannot tax property on which the nuisance was caused by its own act for its abatement. *Weeks v. Milwaukee*, 10 Wis., 242.

Courts have held that the regulation of privies by health authorities is proper. *Malone v. City of Quincy* (Fla. 1923), 66 Fla. 52, 62 So. 922. *Cartwright v. Board of Health of Cohoes* (N. Y. 1901), 59 N. E. 1120.

It is a constitutional exercise of the police power of the state to require that privy vaults be removed and replaced by sanitary water closets. *St. Louis v. Nash* (Mo. 1924), 260 S. W. 985. *Harrington v City of Providence* (R. I. 1897), 38 Atl. 1.

**Sewer connections.** A city has the power to control and regulate its drains and sewers, and a property owner has no right to connect a private sewer with the city sewer without the consent of the municipality. *Kravey v. Smith* (Ky.).

**Defective sewers.** If sewers are so negligently constructed as to injure private property, the municipality is liable. *Cummings v. Toledo*, 12 Ohio.

**Cesspools.** If the drainage of a part of the filth of a town into an excavation or pond is such as to cause such pond to be dangerous to the health and a source of disease, a nuisance may exist even though the pond be of too recent origin to have at the time of suit affected the health of the neighborhood. *Ness v. State*, 71 Arkansas, 144.

Where a nuisance is caused by certain houses in a certain parish or district emptying their cesspools by connecting a pipe into certain main pipes which pass along the road of such district, which pipes are ultimately connected with and discharge the sewage into certain brooks which flow into plaintiffs district and thus cause a nuisance, plaintiff would have a remedy as against the persons actively committing it; that is, against the occupants or owners of the house where sewage is turned into brooks in the manner stated. 40 W. Rep. 185.

**Sewerage system.** The mere fact that a city's sewers are of permanent construction does not render permanent also the nuisance occasioned by them, poisoning the waters of a stream and so injuring stock in pastures, for in such case the city has a right at any time to abate the nuisance by proper means of filtration or otherwise using such sanitary measures as to render the sewage innocuous. *Vogt v. City of Grinnell*, 123 Iowa, 332.

The sewerage system of a large city, involving the health of its inhabitants and erected at a large expense, will not be suppressed for any trivial or fanciful reason but where it is clearly shown that a nuisance exists, neither the expense to the city in constructing its sewers, nor the fact that its many inhabitants will be injured by its suppression, is a valid defense; nor will the court concern itself as to how or to what expense the city is to abate the nuisance, or drain itself without sewers. 48 Central Law Journal, 95.

**Liability for.** A suit lies to enjoin a village from maintaining a sewer as a nuisance, even though commissioners are vested with the entire charge and control of sewers and they can sue and be sued. *Bolton v. New Rochelli*, 84 Hun (N. Y.) 281.

**Open sewers.** If an open sewer constitutes a nuisance, it is no excuse where an injunction is sought, that private premises cannot lawfully be entered upon to abate it. *Densby v. Kingston*, 14 New York, 601.

The discharge of sewage through an open wooden trough in close proximity to plaintiff's house, constitutes a nuisance. *Adams v. City of Modesto*, 131 California, 501.

**A municipality can control the use of its sewers.** A city has the power to control and regulate its drains and sewers, and a property owner has no right to connect a private sewer with the city sewer without the consent of the municipality. (*Kraver v Smith* (Ky.) )



## Relating to Stream Pollution

**General.** Placing deleterious and offensive substances in a stream is ground for special damages to a land owner below. *Greene v. Nunnemacher*, 36 Wis., 50.

State legislation regarding stream pollution upheld as a valid exercise of the police power:

*Sprague v. Door*, (1904), 185 Mass. 10, 69 N. E. 344.

*State v. Wheeler* (1882), 44 N. J. L. 88.

*City of Durham v. Eno Cotton Mills* (1906), 141 N. C. 615, 54 S. E. 453; 7 L. R. A. (N. S.) 321.

*State Board of Health v. City of Greenville* (1912), 86 Oh. St. 1, 98 N. E. 1019, Ann. Cass. 1913 D, 52.

*Miles City v. Board of Health* (1909), 39 Mont. 405, 102 Pac. 696, 25 L. R. A. (N. S.) 589.

*Salt Lake City v. Young* (1915), 45 Utah 349, 145 Pac. 1047.

*Stein v. State* (1861), 37 Ala. 123.

**Pollution caused by sewage, liability for.** City liable for sewage pollution of stream and subject to injunction, relief having as aim the abatement of nuisance. *Mitchell Realty Co. et al. v. City of West Allis, Wis. Supreme Court*, 199 N. W. 390.

Responsible officials of a municipality liable for failure to inaugurate necessary steps to comply with an order to cease polluting a waterway with sewage from their municipality. *Department of Health of State of New Jersey v. The Borough of Fort Lee, Chancery of New Jersey*, Dec. 17, 1929.

**Sewerage permit.** Permit issued by State Board of Health authorizing city to discharge sewage effluent into river does not authorize city to create or continue nuisance. *People v. City of Reedley et al.*, 226 Pac. 408.

A municipality may not maintain a public nuisance even where it is performing a governmental duty. *Bernstein v. Milwaukee*, 158 Wis. 576.

**Agricultural use.** Appellate Court of Indiana affirms judgment of Circuit Court holding City of Frankfort liable for damages caused by sewage pollution of stream used for purposes of watering cattle and other agricultural purposes. *City of Frankfort v. Jay D. Slipper*. June 19, 1928.

**Incomplete sewage treatment.** Permanent injunction granted riparian land owners in action against village to prevent it from polluting stream by sewage effluent. Decree of trial court affirmed. *The Barrington Hills Country Club, et al. v. Defendants in Error, v. The Village of Barrington, Plaintiff in Error*. Circuit Court Lake County, Ill., Docket No. 22018—Agenda 25—Dec., 1933.

**Private nuisance.** Discharge of sewage into stream flowing through farms of several persons, held a private rather than a public nuisance. *Smith v. Sedalia*, 152 Mo. 283.

**Sewage pollution odors.** The pollution of the water of a stream by a city's sewage to such a degree as to deprive the riparian owner of his right to pure water and to injure his health and the value of his property by the smells arising therefrom, is held to be an actionable nuisance. Vol. 48, Central Law Journal, 493.

**Pollution damages.** The measure of damages to the owner of the land which is injured by pollution of a stream is the difference in its value before and after the sewage was discharged into the stream. *El Dorado v. Scruggs* (Ark.)

**Riparian rights.** A riparian owner of property bordering on a river or stream has the undoubted right to have the water come to him in substantially its natural state, in quality as well as in quantity, and fit for watering stock and for other domestic uses. *Attorney General v. Mayor*, 13 W Rep. 888.

Municipalities polluting streams may be sued or enjoined as this is not a governmental but a corporate function:

*Winchell v. Waukesha* (1901), 110 Wis. 101, 85 N. W. 668, 84 Am. S. O. 902.

*Chapman v. City of Rochester* (1888), 110 N. Y. 273.

*Attorney General v. City of Grand Rapids* (1913), 177 Mich. 503, 141 N. W. 890.

*Joplin Consolidated Mining Co. v. City of Joplin* (1894), 124 Mo. 129, 27 S. W. 408.

**Long-continued usage does not give right.** The fact that sewage has been discharged into a certain stream for a long time does not justify continuance of the practice when a nuisance is created. (*Kraver v. Smith* (Ky.) )

## WATER, ICE, SEWAGE

### Pollution Caused by Industrial Wastes

**Pollution by gas works.** The adulteration of river waters by gas works permitting offensive and noxious matter to enter such waters to the injury of another manufacturer constitutes a ground for action. *Carhart v Auburn Gas Light Co.*, 22 Barb (N. Y.) 297.

**Dye or colored wastes.** A deposit in a stream of colored matter used in manufacturing, may be enjoined when it renders the water unfit for culinary or domestic purposes. 59 New York, 203.

Where a manufacturing establishment in its operations discharges large quantities of deleterious substances, thereby polluting a stream and destroying the fish, and such injurious substances intermingle with the water and render it less available for purposes of agriculture and stock raising, such act constitutes a public nuisance. 72 N. E. Rep., 879.

**Pulp and paper wastes.** The rule recognizing the right of a city located on the banks of a stream to discharge its sewage therein, or of a landowner in developing and utilizing the natural resources of his land to discharge water therefrom, which by its natural flowage finds its way to lower lands, or into streams, does not apply to a company engaged in manufacturing for its own profit, which might be operated elsewhere less injuriously to the rights of others, in bringing its factory material from it, by artificial means which involves putrescent, deleterious and other waste material which it discharges into a stream. *Weston Paper Co. v Pope*, 55 Indiana, 394.

**Glucose factory.** It is a question of fact whether or not a discharge from a glucose factory pollutes a river. *The State v. Glucose Sugar Refining Co.*, 117 Iowa, 524.

**Creamery refuse.** The deposit of refuse from a creamery into the bed of a stream flowing through plaintiff's land and near his buildings, polluting the water and giving off noxious gases affecting the use and enjoyment of plaintiff's property is a nuisance; but it may be so voluntarily abated as not to constitute a nuisance. *Perry v. Howe Co-operative Creamery Company*, 125 Iowa, 415.

**Creamery waste.** A creamery company will be enjoined from causing offensive waste matters to flow upon another's pasture to its injury. *Price v. Oakfield Highland C. Co.*, 87 Wis., 356.

**Starch factory wastes.** The deposit of refuse from a starch factory in a river will be restrained at a suit of a lower riparian proprietor whose personal comfort is affected thereby and who is deprived of the use of the water. *Middlestadt v. Waupaca S. and P. Co.*, 93 Wis., 1.

**Wastes in public gutters.** Maintaining issues or outlets in cesspools of a large factory into public gutters of a street, whereby large quantities of dangerous matter flows into such gutters to the peril of public health, constitutes a nuisance, even though such acts are prohibited by city ordinance. *Board of Health v. Cotton Mills*, 46 Louisiana, 306.

### Relating to Drainage and Flooding

**Pollution by drainage.** It cannot be expected that as population increases, the bodies of water used for drainage purposes will remain absolutely pure, and both the public and the riparian owner must necessarily submit to a certain amount of inconvenience and annoyance from the reasonable use of such waterways for drainage purposes. On the other hand the riparian owner of the property bordering on a river or stream has the undoubted right to have the water come to him in substantially its natural state, in quality as well as in quantity and fit for watering stock and for other domestic uses. *Attorney General v. Mayor*, 13 W. Rep. 888.

If the drainage of a part of the filth of a town into an excavation or pond is such as to cause pond to be dangerous to the health and a source of disease, a nuisance may exist even though the pond be of too recent origin to have at the time of suit affected the health of the neighborhood. *Ness v. State*, 71 Arkansas, 144.

**Right to drainage.** When land contains a depression which collects surface water from surrounding territory, from which the surplus flows through a drain to another's land, and a town drain along the old course was constructed so as to drain the depression in other land, any damage which might result is not enforceable in an equitable action independently or to compel a restoration of former conditions. Anyone has the right to drain his land of surface water as it came thereon, by causing the same to flow in the natural course of drainage onto adjoining lands, and there is no remedy except the exercise of the same right. *Shaw v. Ward*, 111 Wisconsin, 671.



**Surface drains.** It is not a nuisance to drain surface water, with the usual impurities of the street, into a river, although the fish are killed thereby. *Bairand v. City of Newton*, 27 N. E. Rep., 995.

**Surface water.** One landowner cannot rightfully collect surface water on his premises in a reservoir and then discharge the same directly onto the land of another to his injury, or onto the land near the premises of another so that it will reach the same in a large volume, to the material injury thereof. *Pettigrew v. Village of Evansville*, 25 Wis., 223.

**Drain for ponds.** The fact that a stagnant pool created by a railroad company could have been drained by the city will not relieve said company from liability for special damages occasioned thereby. *The Savannah F. & M. Railroad Co. v. Parish*, 117 Georgia, 893.

**Draining surface water.** Where the railroad company diverts surface water from its natural channels, it is a question of fact whether a new permanent outlet for the water should be provided. *Blocke v. The Great Northern Railway Company*, 66 Minn.

**Flooding land.** In an action against the owner of a mill dam for flooding complainant's lands, evidence examined, and held sufficient to sustain the finding that the lands were flooded through the year to a greater extent than they had ever been during the ordinary seasons and that the water had been raised twenty inches above its usual height. *Reason v. Peters*, 117 Michigan.

A defendant may be restrained from discharging upon plaintiff's land, through a ditch, surface waters and waters from a fountain and springs, collected into a basin by him, when the injury is continuous and constantly recurring. Relief in equity is not to be denied because there is a demand for damages already sustained. *Wendthaudt v. Cavanaugh*, 85 Wis., 126.

The obstruction of a stream by natural causes does not constitute a nuisance. *Mohr v. Gault*, 10 Wis., 513.

## Relating to Garbage and Refuse Disposal

**Right to regulate.** Power of city to regulate garbage disposal upheld on ground that garbage disposal is subject to control by municipalities under the police power. *Pantlind et al v City of Grand Rapids*, 177 N. W., 302.

A municipality may control the manner of collecting and disposing of garbage within its limits, and an injunction may be granted to prohibit unauthorized collection in violation of an ordinance. *Board of Health of Grand Rapids v. Vink*.

**Unauthorized dumping.** The unauthorized use of the premises of another in putting trash, filth and garbage on the same, in such a manner as to interfere constantly with the reasonable and unimpeded use by the owner, and to occasion him hurt, annoyance and damage, in addition to being a nuisance, is a continuing trespass which may be irreparable in damages, to avoid the consequences of which a court of equity may interfere by injunction. *Lowe v. Holbrook*, 71 Georgia, 560.

**Unightly dump.** An unsightly appearance of a lot, caused by depositing certain substances thereon, does not itself constitute a nuisance. There must be an injury coming from such deposits, which renders the enjoyment of property especially inconvenient and uncomfortable. *Lane v. Concord*, 70 N. H., 485.

**Incinerator operation.** City liable for negligent installation and management of an incinerator. *Kneece v. City of Columbia, Supreme Court of South Carolina*, 123 S. E. 100.

**Injunction.** An injunction will lie to restrain a nuisance consisting of deposits by defendants in a gully or ravine, on lots owned by defendant, of refuse, rendering the premises insanitary, compelling plaintiffs in warm weather to keep the windows closed at times, if such conditions essentially interfere with the comfortable enjoyment of life and property. *Percival v. Yaushing*, 120 Iowa, 451.

**Garbage.** The dumping of the garbage of a city into one of the Great Lakes fifteen miles from the shore is not prima facie nuisance. *Kuehn v City of Milwaukee*, 92 Wis., 263.

## Atmospheric Pollution

**Gas plant fumes.** Offensive vapors, noxious fumes, smells and stench arising from gas plant considered private nuisance. *Watson v. Gas Co.*, 5 U. C. Q. B., 262.

Gas company abated as private nuisance because of injury to farmers' crops caused by noxious matters issuing from gas plant. *Broadbent v. Imperial Gas Co.*, 7 De G. M. & G. 436.

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**Noxious fumes.** Discharge by copper company of noxious fumes and gases which destroy forests and vegetation and threatened injury to the health of the inhabitants of a portion of Georgia, enjoined by court. *Georgia v. Tennessee Copper Co.* (1906), 206 U. S., 27 S. Ct. 618, 51 L. Ed. 618.

**Smoke nuisance.** *N. W. Laundry v Des Moines* (1916), 239 U. S. 486, 36 S. Ct. 206, 60 L. Ed. 396.

No party is liable to another as and for a nuisance simply because he keeps a stock-yard, if it is kept in such a place and manner as not to contaminate the atmosphere to such an extent as to substantially interfere with the comfort or enjoyment of others, or impair the use of their property. *Stadler v. Grieben*, 61 Wis., 500; *Pennoyer v. Allen*, 56 Id., 511.

### Attorney General's Opinions

**Bathing beach pollution by sewage.** A city that maintains a sewerage system which pollutes a bathing beach in one of the parks of the city so as to endanger the health of the people, maintains a public nuisance and the city is liable for damages. A park board who is operating the bathing beach and park may also be liable. A notice placed at the beach to the effect that the bathers use it at their own risk will not, in our opinion, prevent the city park board from being liable. (Opinions of Attorney General, Vol. XXII, p. 697).

**Sealing abandoned wells.** Municipalities have broad powers in protecting the health, safety and welfare of the public and for that purpose may pass ordinances strictly regulating abandoned wells, require permits on the installation of private wells and can provide penalties for failure to comply with the ordinances. (Opinions of Attorney General, Vol. XXIV, page 404).

**Definition.** A bank of a stream means the ground which ordinarily confines it to a definite course, and includes the boundary to which the water may extend or overflow in high water periods. (Opinions of the Attorney General, Vol. XVI, page 747).

**Buildings used for human habitation.** The words "buildings used for human habitation" in sec., 144.06, stats., is not limited to dwelling houses, but includes other buildings such as stores and other places of business where human beings are in need of sewerage and waterworks. (Opinion of the Attorney General, Vol. XXII, page 923).

**Public health—nuisances.** Health commissioner of city under general charter has authority to summarily abate public nuisance under provisions of sec. 146.14, subsec. (4), stats. (Opinions of the Attorney General, Vol. XXIV, pages 658-663).

**Local health boards may adopt ordinances protecting water supplies.** The local board of health has a lawful right to pass an ordinance making it unlawful for any person to locate, erect, maintain any barn, stable, or privy within 50 feet of any well. The reasonableness of such an ordinance is for the court to determine.



## CHAPTER 145.

## PLUMBING.

145.01	Definitions.	145.09	State comity.
145.02	Powers of board.	145.10	Investigations, hearings; suspension, revocation.
145.03	Powers of board.	145.11	Plumber's sign.
145.04	Waterworks and sewerage.	145.12	Prohibitions and penalties.
145.05	Plumbing supervisors, supervision.	145.13	Exceptions to section 145.06; promulgation of plumbers' code.
145.06	License required.		
145.07	License examinations.		
145.08	Fees; expiration of license; registration.		

**145.01 Definitions.** (1) **PLUMBING.** In this chapter, "plumbing" means and includes:

(a) All piping, fixtures, appliances and appurtenances in connection with the water supply and drainage systems within a building and to a point from three to five feet outside of the building.

(b) The construction and connection of any drain or waste pipe carrying domestic sewage from a point within three to five feet outside of the foundation walls of any building with the sewer service lateral at the curb or other disposal terminal, including private domestic sewage treatment and disposal systems and the alteration of any such system, drain or waste pipe, except minor repairs to faucets, valves, pipes, appliances and removing of stoppages.

(c) When so provided by local ordinance, the water service piping from a building to the mains in the street, alley or other terminal and the connecting of domestic hot water storage tanks, water softeners, water heaters with the water supply system.

(d) The water supply piping and plumbing appliances including the water pressure system other than municipal systems as provided in chapter 144.

(e) A plumbing and drainage system so designed and vent piping so installed as to keep the air within the system in free circulation and movement, and to prevent with a margin of safety unequal air pressures of such force as might blow, syphon or affect trap seals, or retard the discharge from plumbing fixtures, or permit sewer air to escape into the building.

(2) **MASTER PLUMBER.** A master plumber is any person skilled in the planning, superintending and the practical installation of plumbing and familiar with the laws, rules and regulations governing the same.

(3) **JOURNEYMAN PLUMBER.** A journeyman plumber is any person other than a master plumber, who, as his principal occupation, is engaged in the practical installation of plumbing.

(4) **APPRENTICE.** A plumber's apprentice is any person other than a journeyman or master plumber who, as his principal occupation, is engaged in learning and assisting in the installation of plumbing and drainage.

(5) **BOARD.** Board means the state board of health. [1931 c. 431 s. 2]

**Note:** All work dealing with providing performed by licensed plumber. 26 Atty. of safe, pure water for human consumption Gen. 187.  
and disposition of water so used must be

**145.02 Powers of board.** (1) The construction, installation and maintenance of plumbing in connection with all buildings in this state, including buildings owned by the state or any political subdivision thereof, shall be safe, sanitary and such as to safeguard the public health.

(2) The board shall have general supervision of all such plumbing and shall after ten days' notice in the official state paper and public hearing, prescribe, and publish and enforce minimum, reasonable standards therefor which shall be uniform so far as practicable. The state health officer or any employee designated by the board may act for the board in holding such public hearing.

(3) The board may exercise such powers as are reasonably necessary to carry out the provisions of this chapter. It may, among other things:

(a) Employ competent supervisors and other assistants, prescribe their qualifications and assign their duties. Except in the adoption of rules and regulations, the state health officer may act for the board.

(b) Conduct investigations and experiments for the advancement of technical knowledge relating to plumbing and may hold public meetings and attend or be represented at such meetings within or without the state.

## 145.03 PLUMBING

(c) Enter and inspect at reasonable hours plumbing installations on private or public property and may disseminate information relative to the provisions of this chapter.

(d) Prepare and cause to be printed such codes, bulletins or other documents as may be necessary and furnish copies thereof to those engaged in the plumbing business and to the public upon request.

(e) Furnish upon request of the owner of the building or of the plumber making the plumbing installation, recommendations or a certificate of inspection.

(4) The board shall prescribe rules and regulations as to the qualifications, examination and licensing of master and journeyman plumbers and for the registration of plumbing apprentices. On March first of each year the board shall prepare a list giving the names and addresses of all licensed plumbers and registered plumbing apprentices. [1931 c. 431 s. 2]

**Note:** Rule made by board of health under (4), amending rule 8 by extending period of journeymanship from three to five years before applicant is eligible to file application for master plumber's license is valid and applies to all examinations to be taken for master plumber's license after rule was adopted. 22 Atty. Gen. 397.

**145.03 Powers of board.** (1) **EXAMINERS, TERM, DUTIES, PAY.** The board shall within thirty days after the taking effect of this chapter appoint, and may remove for cause, a committee of examiners consisting of three members, prescribe their qualifications and assign their duties, one of whom shall be a master plumber, one a journeyman plumber and one an employe of the board. The term of office shall be for a term of two years. Such examiners shall be exempt from the provisions of chapter 16. The said committee of examiners and other employes of the board shall when so directed, serve the board in an advisory capacity in the formulating of rules and regulations to be adopted by the board. Each member of the committee of examiners who is not an employe of the board shall be paid a per diem of ten dollars per day for the actual number of days served by such member in the performance of his duties, and in addition thereto shall be reimbursed his actual expenses necessarily incurred in the performance of his duties, such per diem and expenses to be paid from the appropriation to the state board of health in subsection (9) of section 20.43.

(2) **APPRENTICESHIP.** The board may determine and prescribe the conditions under which any person who is not indentured as an apprentice in accordance with chapter 106 may serve a plumbing apprenticeship, as to school attendance requirements, and the credit for such school attendance in serving such an apprenticeship. The term of a plumbing apprentice shall be five years. In order that the apprentice may qualify at the end of his apprenticeship as a skilled mechanic in the art of installing plumbing work, the board may prescribe the character of plumbing work that the apprentice may do during the fourth and fifth year under the direction or supervision of a master or journeyman plumber without either such master or journeyman being physically present, provided that the master plumber in charge shall be responsible for all such work.

(3) **TEMPORARY PERMITS.** The board may issue temporary revocable permits to master and journeyman plumbers pending examination, and for such purpose may appoint agents without compensation or may authorize one of its examiners or plumbing supervisors to hold a special permit examination, the result of which to be reported to the board in writing. The board may make rules and prescribe procedure governing the issuance of such permits. [1931 c. 431 s. 2; 1937 c. 349]

**145.04 Waterworks and sewerage.** (1) **ORDINANCE RULES.** A city of the first, second or third class having a system of waterworks or sewerage shall, and a village or city of the fourth class or any township or county or any metropolitan sewerage commission may, by ordinance, prescribe rules and regulations to safeguard the public health, not in conflict with the minimum standards prescribed by the board for the materials, construction, alteration and inspection of pipes, tanks and fixtures by which supply or waste water or sewage is used or carried, and provide that they shall not be placed in any building except in accordance with plans approved by the board of public works, where such board exists, or the board of health or such authority as the board or any metropolitan sewerage commission may designate, and that no plumbing shall be done, except repairing leaks, without permit upon prescribed conditions.

(2) **NO LOCAL LICENSES.** No city, village, township, county or metropolitan sewerage district commission shall require the licensing of plumbers or prohibit plumbers licensed under this chapter from engaging in or working at the business of plumbing.

(3) **REPORTS TO BOARD.** The authorities of any such city or metropolitan sewerage district shall report to the state board of health each failure on the part of a state licensed plumber to qualify as a journeyman or master plumber and each wilful violation of any plumbing regulation. [1931 c. 431 s. 2]



**145.05 Plumbing supervisors, supervision.** (1) The council of a city of the first, second or third class, having a system of waterworks or sewerage, or the officer or board in charge, shall appoint one or more plumbing supervisors, who shall be licensed plumbers, when first appointed, but need not renew their licenses while they continue in office. The council of a city of the fourth class and the board of a village, township, county or the commissioner in charge of any metropolitan sewerage district may appoint one or more plumbing supervisors who shall be practical plumbers, skilled sanitarians, or competent persons familiar with plumbing. Such supervisors may be removed for cause. They shall supervise all plumbing, new or alterations or repairs, and report to the appointing body violations of regulations, and perform such other appropriate duties as may be required. Their compensation shall be fixed by the council, board or commission.

(2) Where a system of waterworks or sewerage has been or shall be established in any city, village, town or metropolitan sewerage district which has not provided for a board or officer to supervise plumbing, drainage and sewerage, the board shall take immediate and entire control of plumbing, drainage and sewerage intended to be connected with public sewer or waterworks, and exercise all the powers conferred by this section until such municipalities or district provides for such supervision. [1931 c. 431 s. 2]

**145.06 License required.** (1) No person shall engage in or work at the business of a master plumber or journeyman plumber in any city or village having a system of waterworks and sewerage or in any metropolitan sewerage district unless licensed so to do by the board. A master plumber may also work as a journeyman. No person shall act as a plumber's apprentice in any such city or village or building unless registered with the board.

(2) In such city or village or in any metropolitan sewerage district, no person, firm or corporation shall install plumbing unless at all times a licensed master plumber is in charge, who shall be responsible for proper installation. Licenses shall be issued only to individuals and no license shall be issued to or in the name of any firm or corporation. No such license shall be transferable. It shall be unlawful for any licensed master plumber to allow the use of his license, directly or indirectly for the purpose of obtaining local permits for others. Nor shall he allow the use of his license by others, to install plumbing work.

(3) Each member or employe of a copartnership or each officer or employe of a corporation engaging in the business of superintending plumbing installations shall be required to apply for and obtain a master plumber's license before engaging in the work of superintending plumbing installations. [1931 c. 431 s. 2]

**145.07 License examinations.** (1) **EXEMPT PERSONS.** Any person heretofore not required to be licensed and who at the time of passage and publication of this act was engaged in or worked at the business of a master plumber in this state and as such owned a plumbing establishment or an interest therein shall be granted a master plumber's license without examination. Any journeyman plumber who was engaged at the time of the passage and publication of this act in the practical installation of plumbing and who is required to be licensed under this chapter shall be granted a journeyman plumber's license without examination. Applicants for either master or journeyman plumber's license under this subsection shall furnish the board with satisfactory evidence of qualification and make application therefor on a blank furnished by the board within ninety days after this section takes effect, and pay the prescribed license fees.

(2) **SEMIANNUAL.** Regular examinations shall be held at least twice each year and special examinations may be held at such time and place as may be fixed by the board.

(3) **APPLICATION.** Application for a master or journeyman plumber's examination, temporary permit or license shall be made to the board with fees. Unless the applicant is entitled to a renewal of license, a license shall be issued only after the applicant passes a satisfactory examination showing fitness. No such license or permit shall be transferable. [1931 c. 431 s. 2]

**145.08 Fees; expiration of license; registration.** (1) The fees are as follows:

(a) For master plumber's examination, ten dollars. An applicant who fails upon examination shall be entitled to one re-examination without an additional fee. For each subsequent examination the fee shall be five dollars.

(b) For master plumber's license, fifteen dollars which shall be paid immediately upon notice from the board that the applicant has passed in examination. Upon failure to pay the license fee within thirty days after receiving such notice, no license shall be issued and the applicant shall again appear for examination and pay the examination fee. For each renewal of license, fifteen dollars, if application is made prior to February first, annually; after that date an additional fee of five dollars.

## 145.09 PLUMBING

(c) For journeyman plumber's examination, two dollars. An applicant who fails upon examination shall be entitled to one re-examination without an additional fee. For each subsequent examination the fee shall be two dollars.

(d) For journeyman plumber's license one dollar and one dollar for each renewal of license if application is made prior to February first, annually; after that date an additional fee of one dollar.

(e) For temporary permit pending examination and issuance of license for master plumber, twenty-five dollars; for journeyman three dollars and which shall also cover the examination fee prescribed and the license fee for the year in which issued.

(2) No license shall be issued for longer than one year and all licenses shall expire on December thirty-first in each year and such license may be renewed upon application made within thirty days preceding or following the date of expiration. The board may renew licenses upon application made after February first if it is satisfied that the applicant has good cause for not making application within the months of December or January, and upon payment of the renewal and additional fees prescribed.

(3) Plumber's apprentices shall register with the board without fees within thirty days after this chapter takes effect. [1931 c. 431 s. 2]

**145.09 State comity.** The board may, without examination and upon payment of the required fee, license an applicant to whom license was issued under the laws of any other state having provisions governing the licensing of plumbers which in the opinion of the board are substantially equivalent to the requirements of this chapter. [1931 c. 431 s. 2]

**145.10 Investigations, hearings; suspension, revocation.** (1) The board may on its own motion make investigations and conduct hearings and may, on its own motion or upon complaint in writing duly signed and verified by the complainant, and upon not less than ten days' notice to the licensee, suspend any plumber's license or temporary permit if it has reason to believe, and may revoke such license or permit in the manner hereinafter provided, if it finds that the holder of such license or permit has:

(a) Made a material misstatement in the application for license or renewal thereof or for temporary permit;

(b) Demonstrated incompetency to act as a plumber; or

(c) Has wilfully violated a second time any provisions of this chapter or any rule, regulation or order prescribed by the board.

(2) A copy of the complaint with notice of the suspension of license or permit, if ordered by the board, shall be served on the person complained against, and his answer thereto shall be filed, in the manner and within the time provided in subsection (3) of section 136.08, and the provisions of said subsection shall govern so far as applicable.

(3) No order revoking a license or permit shall be made until after a public hearing to be held before the board at the place, time and in the manner provided in section 136.09; and the procedure provided in said section for notice, conduct of hearing and determination by the board shall govern so far as applicable. One year after the date of revocation, application may be made for a new license. [1931 c. 431 s. 2]

**145.11 Plumber's sign.** (1) Every holder of a master plumber's license engaged in business in serving the public in any city or village having a system of waterworks or sewerage, or in any metropolitan sewerage district shall display in a conspicuous place at the entrance of his place of business a sign bearing his name and the words "Licensed Master Plumber," in letters not less than three inches high, such signs to be furnished to licensed plumbers by the board. Every holder of such license shall promptly notify the board of any change of his business address.

(2) No person other than a licensed master plumber shall use or display the title "Master Plumber" or append his name to or in connection with such title or any other title or words which represent or may tend to represent him as a licensed master plumber. [1931 c. 431 s. 2]

**145.12 Prohibitions and penalties.** (1) Any person, firm or corporation who engages in or follows the business or occupation of, or advertises or holds himself or itself out as or acts temporarily or otherwise as a master plumber without first having secured the required license or permit, or who otherwise violates any provisions of this chapter, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than ten dollars nor more than one hundred dollars or by imprisonment in the county jail for not less than thirty days, or by both such fine and imprisonment. Each day during which a violation continues shall be a separate offense.

(2) Any person who shall do any act prohibited in this chapter or fail to obey a lawful order of the board, or a judgment or decree of a court in connection with this chapter, shall be punished by imprisonment in the county jail for not more than three months or by a fine not exceeding one hundred dollars.



(3) Any master plumber who shall employ an apprentice on plumbing representing him to be a journeyman, or who shall charge for an apprentice a journeyman's wage, shall be punished by a fine of not more than twenty-five dollars, or by imprisonment in the county jail for not more than thirty days. Each day of violation shall be a separate offense. [1931 c. 431 s. 2]

**145.13 Exceptions to section 145.06; promulgation of plumbers' code.** (1) The provisions of section 145.06 shall not apply:

(a) To plumbing work done by a property owner in a building owned and occupied by him as his home, except where such license is required by local ordinance.

(b) To private residences and farm buildings located outside the incorporated limits of any city or village having either a public water or sewer system.

(c) To state owned buildings except when the governing body having jurisdiction of any such state owned buildings shall so provide in its plan and specifications, or in its contracts for plumbing installations in either new or existing buildings.

(2) The provisions of the state plumbing code and amendments thereto as adopted by the board, defining plumbing work, prescribing minimum requirements for design, materials, appliances, workmanship and methods of installation shall after publication in the official state paper have the effect and force of law in the form of minimum standards state wide in application and shall apply to all types of buildings, private or public, rural or urban, including buildings owned by the state or any political subdivision thereof. All plumbing installations shall so far as practicable be made to conform with such code. Cities and villages may make additional regulations not in conflict with such code. [1931 c. 431 s. 2]

## PLUMBING

### Comment

## BUREAU OF PLUMBING AND DOMESTIC SANITARY ENGINEERING

**Aims.** To introduce a higher standard of sanitation and protect the public against installations that menace health and safety, through supervision of plumbers and plumbing work; to promote adequate and safe toilet and washing facilities; and to secure safer water supply and waste disposal facilities in rural and urban habitations.

### PLUMBING DIVISION

**Functions.** 1. Makes a comprehensive study of what constitutes efficient and sanitary plumbing and drainage, and disseminates information as to proper methods, use and care of installations, with the object of conveying a clear understanding of the fundamental principles underlying the design, construction and maintenance of plumbing systems and other sanitary appliances.

2. Endeavors to prevent defective, inefficient and insanitary work by friendly counsel and practical assistance.

3. Examining and licensing of plumbers in all municipalities having public water and sewerage systems.

4. Enforcement of state plumbing code, applicable to any building in the state, prescribing minimum standards uniform throughout the state for plumbing and drainage installations, and embracing design, location, kind, weight and quality of materials, and workmanship, which can readily be followed by plumbers, architects, and the general public.

5. Inspection and supervision of plumbing where local inspection is not provided. State inspectors make investigations and inspections upon request and as the department deems necessary, and offers advice regarding installation methods for plumbing and private waste disposal and water supply systems. (Local plumbing inspection is required in cities of 10,000 or more population.)

6. Furnishing blueprints, specifications and instructions for the sanitary disposal of sewage from residences, schools and similar small installations where employment of a sanitary engineer is not practicable.

7. Drafting of local ordinances governing plumbing and draining.

8. Issuing publications on plumbing and related subjects.

9. Cooperation with other departments as noted in the following summary for "domestic sanitary engineering."

10. A copy of the state plumbing code may be obtained upon request to the state board of health.

### DOMESTIC SANITARY ENGINEERING

**Functions.** The activities in this field cover, in general, private waste disposal and water supplies, public comfort stations, school and fair toilets, educational propaganda, and cooperation with public as well as private agencies working for the improvement of sanitary conditions. A study is made of laws relating to general sanitation and its improvement. The lines of work include:

1. Proper design, construction, care and upkeep of privies, and their location with respect to convenience and source of domestic water supply.

2. Abolishing of privies by ordinances, through education, where public water supply and sewerage systems are available, or a public or private system can be provided.

3. Improvement of school toilet facilities:

(a) Outdoor toilets of various types.

(b) Indoor toilets, water-flushed and septic toilets, their design, installation and care.

4. Providing pure water supplies and safe waste disposal by:

(a) Cooperation with all agencies working for the construction or extension of public water and sewer systems.

(b) Conducting investigations for private water and sewerage facilities and giving advice for improvement.

(c) Preparing plans, specifications and installation instructions for residential water supply and sewage disposal systems, and for toilet facilities for schools, places of employment, etc.



(d) In cooperation with county fair societies and with other state departments, practical assistance is extended in providing modern toilet and rest room accommodations at fairs.

(e) Supervising tourist campsite sanitation relating to toilets, waste and garbage disposal, water supply, general cleanliness.

(f) Giving assistance in promoting sanitation and safe water supply in connection with summer resorts, summer homes, etc., upon request.

(g) Supervising the sanitation of new lake and river subdivision plats to insure safe water supplies, sewage disposal, garbage disposal and safe bathing conditions for summer dwellers.

(h) Conducting educational propaganda along these and related lines in the field of sanitation.

## LAKE AND STREAM PLATTING AND SANITATION LAWS

**Sec. 140.05**, stats. defines the powers and duties of the state board of health. Paragraph 7 provides:

The board shall have power to make and enforce such rules, regulations and standards as it shall deem necessary to insure proper sanitary conditions in the development and maintenance of lake and stream shore plats and to comply with the provisions of sec. 236.09 of the statutes. For further information see Wisconsin Lake and Stream Platting and Sanitation Code. Also Camping Regulations and Lake Cottage Sanitation. Copies of these may be obtained from the state board of health. (See also pages 104, 106.)

## REST ROOM AND PUBLIC COMFORT STATION LAWS

(Section 43.49)

**"2. Rest rooms.** Any city may erect, purchase, lease or take by gift or devise, land and buildings for public rest rooms, and may equip, maintain and operate the same.

**"3. Comfort stations.** Every village and city may provide and maintain a sufficient number of suitable and adequate public comfort stations for both sexes. The state board of health shall establish regulations governing their location, construction, equipment and maintenance and may prescribe minimum standards that shall be uniform throughout the state. The board or council may establish further regulations.

**"4. Comfort stations and rest rooms.** The state, every county, city, village and town maintaining places of public assemblage, or camp sites may also provide and maintain a sufficient number of suitable and adequate comfort stations for both sexes and may establish rest rooms separate or in connection with such comfort stations."

Subsection 3 makes the provision for comfort stations on the part of the municipality mandatory. No penalty being affixed, the following general penalty of the Wisconsin statutes therefore applies:

*"Penalty, when none fixed.* Section 353.27. Any person who shall be convicted of any offense the punishment of which is not prescribed by any statute of this state shall be punished only by imprisonment in the county jail not more than one year or by fine not exceeding two hundred and fifty dollars."

It should be observed that under "Construction of Statutes," section 370.01 (subsection 12), the following language appears:

"The word 'person' may extend and be applied to bodies politic and corporate as well as to individuals."

A copy of this code may be obtained from the state board of health.

# CHAPTER 146.

## MISCELLANEOUS HEALTH PROVISIONS.

146.01	Infant blindness.	146.12	Rendering plants.
146.03	Home manufacturing.	146.125	Powers of villages, cities and towns.
146.04	Mattresses and upholstering.	146.13	Draining into highway.
146.05	Public places.	146.14	Nuisances.
146.06	Calclmining and paper hanging.	146.15	Information.
146.07	Drinking cups.	146.16	Expenses.
146.08	Spitting; cuspidors; flasks.	146.17	Limitations.
146.085	Toilets, penalty for locking.	146.18	Child welfare.
146.09	Sweeping.	146.20	Poisons, dispensing regulated.
146.10	Smoke.	146.21	Placing drugs forbidden.
146.11	Slaughterhouses.	146.22	Penalties.

**146.01 Infant blindness.** (1) For the prevention of ophthalmia neonatorum, or blindness in the new born babe, the state board of health shall, annually, cause to be prepared and put up in proper containers a one per cent solution of nitrate of silver with instructions for its use. These shall be distributed free to local health officers in quantities sufficient to enable them to, and they shall, deliver one to each physician and midwife. The attending physician or midwife shall use the said solution as directed in said instructions.

(2) In a confinement not attended by a physician or midwife, if one or both eyes of an infant becomes inflamed, swollen and red, or show an unnatural discharge, at any time within two weeks after birth, the nurse, parents, or other person in charge shall report the facts, in writing, within six hours to the local health officer who shall immediately give warning of the danger and a copy of said instructions, and shall employ at the expense of the municipality a competent physician to examine and treat the case as directed in said instructions.

(3) Any person who violates this section shall be fined not more than one hundred dollars.

**146.02** [*Repealed by 1935 c. 306*]

**146.03 Home manufacturing.** (1) Under this section "manufacturer" shall mean the owner or lessee of any factory or contractor for such owner or lessee, "manufactured" shall mean manufactured, altered, repaired or finished, and "home" shall mean any tenement or dwelling, or a shed or other building in the rear thereof.

(2) No articles shall be manufactured for a manufacturer in a home unless he shall have secured a license from the local health officer, which shall designate the room, apartment or building and name the persons to be employed. License shall be granted only upon payment of a fee of one dollar, and when the health officer shall have satisfied himself through inspection that the place is clean and fit for the purpose and that none of the persons employed or living therein are afflicted with any communicable disease likely to be transmitted to consumers. The license shall be issued for one year. At least one reinspection shall be made during the year, and the license revoked if reinspection discloses improper conditions. The license shall be kept on file in the principal office of the licensee.

(3) The state board of health and the industrial commission may jointly adopt and enforce rules and regulations for local health officers hereunder, and may prohibit home work upon specified articles when necessary to protect health of consumers or workers. Subsections (3), (4) and (5) of section 140.05 shall apply.

(4) Every manufacturer giving out articles or materials to be manufactured, in any home shall issue therewith a label bearing the name or place of business of the factory, written or printed legibly in English, and shall keep a register of the names and addresses of the persons to whom given, and with whom contracts to do so were made, the quantities given out and completed and the wages paid. This register may be inspected by the state health officer, a deputy state health officer, the local health officer, or a deputy of the industrial commission.

(5) Anyone who shall for himself or as manager or agent give out materials to be manufactured, in a home, for an unlicensed manufacturer or who shall employ, or contract with anyone to do such work without such license shall forfeit to the state not less than ten nor more than one hundred dollars for each offense.

**146.04 Mattresses and upholstering.** (1) Whoever manufactures for sale, offers for sale, sells, delivers, or has in his possession with intent to sell or deliver any mattress which is not properly branded, or labeled; or whoever uses, in whole or in part in the



manufacture of mattresses, any material which has been used, or has formed a part of any mattress, pillow or bedding used in or about public or private hospitals or on or about any person having a communicable disease; or dealing in mattresses, has a mattress in his possession for the purpose of sale, or offers it for sale, without a brand or label as herein provided, or removes, conceals or defaces the brand or label, shall be fined not less than twenty-five nor more than five hundred dollars, or imprisoned not to exceed six months, or both. The brand or label herein required shall contain, in plain print in the English language, a statement of the material used, whether they are, in whole or in part, new or secondhand, and the qualities. Such brand or label shall be a paper or cloth tag securely attached. A mattress within this section is a quilted, stuffed pad, to be used on a bed for sleeping or reclining purposes.

(2) Any person upholstering or reupholstering any article, or who manufactures for sale, offers for sale, sells or delivers, or who has in his possession with intent to sell or deliver anything containing upholstering, without a brand or label as herein provided or who removes, conceals or defaces the brand or label, shall be punished as provided in subsection (1). The brand or label shall contain, in plain print in English, a statement of the kind of materials used in the filling and in the covering, according to the grades of filling and covering used by the trade, whether they are in whole or in part new or secondhand, and the qualities, and whether, if secondhand, they have been thoroughly cleaned and disinfected. Such brand or label shall be a paper or cloth tag securely attached.

(3) If the industrial commission believes this section is being or has been violated, it shall advise the attorney-general, giving the grounds of its belief; and the attorney-general or, under his direction, the district attorney, shall forthwith institute proceedings for enforcement and punishment.

**Note:** Under (2) special tag, specifying piece of upholstering as well as davenport filling material, is required on each movable or chair. 27 Atty. Gen. 448.

**146.05 Public places.** The owner and occupant and everyone in charge of a public building, as defined by section 101.01, shall keep the same clean and sanitary.

**146.06 Calcimining and paper hanging.** Before repapering or recalcimining any part of a wall or ceiling in any hotel or other public place anyone engaged in the business, shall remove all old paper or calcimine and thoroughly cleanse the surface. Violation shall be fined not less than five nor more than twenty-five dollars for each offense.

**146.07 Drinking cups.** (1) If the owner or manager shall furnish, or permit the use of a common drinking cup in a railroad train or station, state or other public building, street, public park, educational institution, hotel or lodging house, theater, department store, barber shop, or other places where it is inimical to health, and the state board of health so finds and orders, he shall be fined not less than ten nor more than fifty dollars.

(2) No railroad car in which any passenger is permitted to ride for more than ten miles of continuous passage in one general direction shall be operated unless there is provided for every passenger therein, at all times during such operation, opportunity to obtain free of charge a paper drinking cup not theretofore used by any person. Such drinking cups shall be kept in a clean, conspicuous and convenient place at or near the drinking fountain in each such car. Any owner or manager or person in charge who shall fail to comply herewith shall forfeit not less than twenty-five nor more than one hundred dollars for every day or part of day of such failure, to be recovered in an action to be brought by the attorney-general in the name of the state of Wisconsin. The provisions of this section shall be enforced by the public service commission.

**146.08 Spitting; cuspidors; flasks.** (1) Spitting upon the sidewalk or crosswalk of any public place, or upon the floor of any tenement house hall used in common, hotel or lodging house hall or office used in common, factory, any building used by the public, railroad car or street car, or upon the station platform of a common carrier, is forbidden.

(2) The owner or manager of any such building, factory, car, or station platform shall keep posted an adequate number of notices hereof.

(3) The owner or manager of any such place, or of smoking cars or compartments shall provide adequate cuspidors, and provide for their cleansing and disinfection at least once a day.

(4) When ordered by the local health board, the owner, occupant or person in charge of any public or quasi public building shall furnish and efficiently place cuspidors, and thoroughly cleanse and disinfect them daily, when the building is in ordinary use. An efficient number and type of cuspidors and system of cleansing and disinfecting may be prescribed by the board.

(5) Violation of the foregoing provisions of this section shall be fined not more than one hundred dollars or imprisoned not more than six months, or both.

(6) The provisions and penalty of subsection (3) of section 143.06 shall apply to any person with a disease whose infecting agent is in the sputum.

## 146.085 MISCELLANEOUS HEALTH PROVISIONS

**146.085 Toilets, penalty for locking.** If the owner or manager of any public building, other than licensed hotels and resorts, as defined in subsection (12) of section 101.01, shall keep more than fifty per centum of the toilet compartments of any public toilet room locked, he shall be fined not less than ten nor more than fifty dollars. It shall be the duty of the state board of health, the industrial commission and the public service commission to enforce the provisions of this section within their respective jurisdictions. [1933 c. 54]

**146.09 Sweeping.** If the owner or manager shall sweep, or permit the sweeping, except when vacuum cleaners or properly filled reservoir dustless brushes are used, of floors in a railroad station, passenger car, state or public building, educational institution, hotel, or department store, without the floor being first sprinkled with water, moist sawdust, or other substance so as to prevent the raising of dust, he shall be fined not less than ten nor more than fifty dollars.

**146.10 Smoke.** The council of any city or the board of any village may regulate or prohibit the emission of dense smoke into the open air within its limits and one mile therefrom.

**146.11 Slaughterhouses.** (1) No person shall erect or maintain any slaughterhouse, or conduct the business of slaughtering, upon the bank of a watercourse; nor, unless under federal inspection, within one-eighth mile of a public highway, dwelling, or business building; or put a carcass or offal into a watercourse nor upon the banks of a watercourse flowing through any city, village or organized town of two hundred or more inhabitants. Violation of this subsection shall be punished by fine of not less than ten nor more than one hundred dollars, or by imprisonment not exceeding six months. The executive of the municipality shall cause immediate removal of a building or business violating this section, and if he knowingly permit it to be operated, he shall forfeit not less than fifteen nor more than fifty dollars. The provisions of this section relative to location near a public highway, dwelling or business building shall not apply to central or co-operative slaughterhouses in cities having a full-time health officer. Such slaughterhouses shall be open to inspection at all times and must be operated in compliance with all state and local regulations.

(2) Slaughterhouses not subject to federal inspection and supervision shall be inspected and supervised, as to location, construction and operation, by the state board of health, and said board shall cause each such slaughterhouse to be inspected at least once a year. In cities of the first class, such slaughterhouses may be located only on sites approved by the local health officer, the inspector of buildings and the common council. The local health officer, upon complaint or upon the request of the state board, shall make such inspection of slaughterhouses as may be necessary. Violation of the rules and regulations of the state board shall be promptly reported by the local health officer. The state board may inspect slaughterhouses under federal inspection, and shall enforce state law as to all slaughterhouses, and make such order as may be necessary to correct insanitary conditions. Each order shall specify the time within which it shall be complied with, and shall be served in person or by registered mail.

(3) The owner, operator or person in charge may appeal in writing from the order, and shall be heard by the board at its next regular meeting.

(4) The location and construction of any building used as a slaughterhouse, not already reported to the state board of health and not under federal inspection, shall be reported, by the owner, if a resident of the state, otherwise by the operator, to said board within ten days after first used.

(5) Anyone who shall prevent or attempt to prevent an authorized official from entering at any time any slaughterhouse or its premises for inspection, or who shall fail to comply with any order or the rules of the state board of health, or who shall violate this section except subsection (1), shall be fined not less than ten nor more than five hundred dollars, or imprisoned not less than five days nor more than six months. [1937 c. 114]

**Note:** Under this section state board of city having full-time health officer. 26 Atty health is not charged with jurisdiction over Gen. 147.  
location of co-operative slaughterhouse in

**146.12 Rendering plants.** (1) **SCOPE AND DEFINITION.** A dead animal within the meaning of this section is any dead animal carcass not slaughtered for food or if slaughtered, becomes unsuitable for food. This section shall not apply to the disposal of the bodies of animals slaughtered for human consumption, nor to the disposal and transportation of dead animals by a packer of meat products operating under the supervision of the United States department of agriculture. This section shall not apply to fur farms or dog farms or the individual farmer who, as the owner, only collects carcasses for food for his own animals.

(2) **DISPOSAL OF DEAD ANIMALS; LICENSE.** No person shall engage in the business of collecting and disposing of the bodies of dead animals or parts thereof, not slaughtered



for human consumption, without first obtaining a license for such purpose from the state board of health, hereinafter referred to as the board.

(3) **DISPOSAL OF DEAD ANIMALS.** Any person who receives from any other person the body of any dead animal for the purpose of obtaining the hide, skin, grease, meat, bones, or parts thereof from such animal unless in a finished form commonly known as meat scraps, in any way whatsoever, is deemed to be engaged in the business of disposing and rendering of the bodies of dead animals or parts thereof.

(4) **LOCATION.** No person after the effective date of this section shall erect a rendering plant within one-eighth mile of a dwelling, business building or public highway, but no plant need be discontinued because a highway is relocated to come closer than one-eighth mile of any such then existing plant.

(5) **APPLICATION FOR LICENSE; FEE.** (a) Application for such license shall be made to the state board of health on forms provided by it. The application shall be accompanied by a fee of twenty-five dollars.

(b) On receipt of such application, the board shall cause the building in which the applicant proposes to conduct such business to be inspected. If the inspector finds that said building complies with the requirements of this section and with the rules of the board, and that the applicant is a responsible and suitable person, he shall so certify in writing to such specific findings and forward the same to the board.

(c) On the receipt of the said certified findings and on receipt of an additional payment of twenty-five dollars, the board shall issue a license to the applicant for one license year, commencing July first, but no approved plant shall pay an annual application fee after the first inspection fee. Such license is not transferable either from person to person or from place to place.

(d) If the inspector finds that the applicant's building does not comply with the requirements of this section or with the rules of the board, he shall notify the applicant wherein the same fails to so comply. If within a reasonable time to be fixed by the board, but not more than ninety days thereafter, the specified defects are remedied, the board shall make a second inspection and proceed therewith as in the case of an original inspection. Only two inspections need be made under one application.

(e) In case such applicant is refused a license, the fee paid by him shall not be refunded.

(f) In case of transfer of ownership of rendering plant property and business, the new owner shall make application to the state board of health on forms provided by it for a license, and said application shall be accompanied by a fee of twenty-five dollars, and in such case there shall be no prorating of the license fee.

(6) **RENEWAL OF LICENSE.** An original license shall be renewed for each subsequent license year upon the payment of twenty-five dollars if the licensee, in the opinion of the board, remains responsible and suitable to carry on the business, and the place of business continues to comply with this section and the rules of the board.

(7) **DISPOSAL PLANTS; SPECIFICATIONS.** After the effective date of this section, each new place and additions to existing plants for the carrying on of said business shall be constructed of brick, stone, concrete block or concrete throughout to the satisfaction of the board. Dissecting floors shall be constructed of such material and in such manner as shall meet the approval of the state board of health. Buildings used for storage of finished products may have wooden floors. All disposal plant buildings shall be provided with sewerage facilities and floor drains and be thoroughly sanitary.

(8) **MANNER AND TIME OF DISPOSITION.** The following requirements shall be observed in the disposal of such dead animals or parts thereof. All cooking shall be done in closed steel vessels by the dry-rendering process, and the board shall make rules regulating the equipment and operation of such plant, and for the disposal of vapors, odors, gases, sewerage and waste matters so as to prevent the creation of a nuisance. All dead matter shall be disposed of within twenty-four hours after it is deposited in the plant. All skinning and dismembering of bodies shall be done within such building.

(9) **RULES.** The board shall make rules for the carrying on and conducting of such business, but said rules shall not be less stringent than the provisions of this section, and all persons engaging in such business shall comply with the rules.

(10) **ANNUAL INSPECTION; REVOCATION OF LICENSE.** Each place licensed under this section shall be inspected at least once each year, and as often as the board deems necessary to assure that the licensee conducts his business in conformity with this section and the rules of the board. If a licensee fails to obey any of the provisions of this section or any of the board's rules, the board may suspend or revoke the license held by such licensee, subject to review as hereinafter provided.

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(11) **TRANSPORTATION OF DEAD ANIMALS.** (a) No person other than a licensee or his employes may haul and transport the carcasses of dead animals that have died or been accidentally killed, except as otherwise provided by section 95.50. Each wagon, truck, trailer attachment or vehicle employed in the transportation of dead animals or carcasses or parts thereof must carry a card issued by the board, showing the delivery point of the plant and the renderer's license number or permit number of the plant and card disclosing the rightful owner of the truck or vehicle. No truck stations shall be allowed for unloading or dissecting of dead animals and no reloading of parts of the carcasses to be delivered to a rendering plant shall be permitted, except that stations now existing, or such as may be permitted by the board, owned and operated by a renderer, constructed of concrete, stone, brick, concrete blocks, with sewerage facilities and water may continue to operate under rules of the state board of health. No animals shall be dissected at such existing stations, but the station shall be used only for reloading an entire carcass or carcasses from one truck to another for delivery to the rendering plant.

(b) The transportation of dead animals or parts thereof, raw or unrendered, except green or salted hides, shall not be allowed into other states, except by reciprocal agreement with adjoining states or under rules of the board. It shall be unlawful to transport dead, dissected dead animals or entrails of dead animals on the public highways in this state, except by a renderer licensed under this section and as otherwise provided by section 95.50. No stockyards company not operating a rendering plant shall have dead animals transported from its premises except by a licensed renderer or upon trucks approved by the state board of health and owned and operated by the stockyards company to a licensed renderer. Local health officers or the state board of health may require any renderer to remove carcasses from stockyards in case of emergencies, strikes or other causes, without charge to the owner or the operator of the stockyards company. Healthy animals, freshly killed and bled for feed for fur farms and canning factories manufacturing dog and cat food may be shipped into this state, but the entrails thereof shall not be shipped into the state, nor shall the entrails of healthy animals, freshly killed and bled for feed for fur farms and canning factories manufacturing dog and cat food within the state, be disposed of except by a licensed renderer or his employes as provided herein, or by burial. This section shall not apply to live stock truckers in cases where animals have died in transit.

(12) **HOG FARMS.** No hog or pig farm shall be permitted to be operated in connection with a rendering plant and it shall be unlawful for the operator of any rendering plant to feed any parts of dead animals in the raw or unfinished state to animals that are used for human consumption. No person, firm or corporation shall collect or receive from anyone, dead or diseased animals or the parts thereof, for the purpose of feeding in the raw state, or partly cooked animals used for human consumption, unless it is first thoroughly cooked and sterilized, rendered in a closed vessel, dried and disintegrated.

(13) **DUTY TO DISPOSE OF BODIES.** During the period from May to October, the carcass of any animal that has died must be disposed of within twenty-four hours by the owner or person in charge of such animal. Such carcass shall be disposed of by a licensed renderer or shall be buried or burned in accordance with the rules of the board. No licensed renderer shall charge the owner of such carcass for the same or for hauling the same from his premises to the rendering plant. Nothing herein shall prevent the owner from burying such carcass on his premises, and for the purpose of burial he may transport the carcass on a highway from one portion of his premises to another portion thereof, or he may deliver it to a rendering plant. No person who is engaged in the rendering or disposal of dead animals as defined by subsections (1) and (3) of this section shall transport or deliver milk, cheese or other dairy products to any market.

(14) **EXISTING LAWS.** Nothing in this section shall be construed to deprive any city or village from passing any ordinance prohibiting the rendering of dead animals within the boundaries as specified in subsection (7) of section 66.05; nor shall anything in this section be construed to nullify any existing law or ordinance prohibiting the rendering of dead animals in the area over which any city or village has jurisdiction. Nor shall anything in this section be construed so as to prohibit any city or village from licensing, revoking such licenses, and regulating the business of rendering and transporting dead animals under sanitary conditions no less stringent than those provided by this section and the rules of the board. Any city or village licensing and regulation shall be construed as being supplementary to this section and the rules of the board and shall in no way be construed as excusing or justifying any failure or neglect to comply with any and all of the provisions of this section and the rules of the board. The provisions of this section shall be construed as expressly modifying the powers granted to towns.



(15) **TIME IN WHICH TO COMPLY.** All rendering plants within the state shall be licensed within three months after the passage and publication of this section for the balance of the license year with the first annual license fee of twenty-five dollars. No existing plant shall operate unless it obtains a license within four months from the effective date of this section.

(16) **WITNESSES; SUBPOENAS; EXAMINATION.** In the enforcement of the provisions of this section, the board may issue subpoenas for witnesses and enforce their attendance and examine them under oath.

(17) **ORDERS, PRIMA FACIE LAWFUL.** All findings, decisions, orders and rules and regulations of the state board of health made pursuant to this section shall be in force and shall be prima facie lawful until finally found otherwise in an action brought for that purpose pursuant to the provisions of subsection (18) of this section.

(18) **REVIEW OF ORDERS.** (a) Within twenty days after notice mailed by the board that any order or determination has been made and filed by it under the provisions of this section, any party named in said order or affected thereby may apply to the state board of health for a hearing in respect to any matter determined in such proceeding. Such hearing shall be held within ten days after said application is received by the state board of health unless the parties and the board agree otherwise. The application for a hearing shall set forth specifically the ground on which the applicant considers the order or determination to be unlawful or unreasonable. No action to review any order or determination of the state board of health shall lie in any court unless the plaintiff has made application to said board for a hearing within the time limited herein. If, after such hearing by the board it appears that the original order, determination or finding is in any respect unlawful or unreasonable, the board may reverse, change, modify or suspend the same accordingly, and any order or determination after such hearing, reversing, changing, modifying or suspending the original order or determination, shall have the same force and effect as an original order or determination. If within fifteen days after the conclusion of said hearing, the board fails to issue an order affirming, reversing, modifying or suspending its original order or determination, it is deemed to have affirmed the original order or determination.

(b) It is declared that the legislative powers of the state, in so far as they are involved in the making and filing of orders or determinations by the state board of health have not been completely exercised until the board has held a hearing and made and filed its order or determination after such hearing, as provided for in this section.

(c) Every person aggrieved by an order or determination of the state board of health may commence an action for the review thereof in the circuit court of the county where the cause of action arose or in the county where the principal place of operating the business (as defined in subsection (2) of this section) within the state is located. Such review shall be tried as an original action by the judge. Whenever any complaint is served upon the board under the provisions of this section, before such action is reached for trial the board shall cause the original or a certified transcript of all prior proceedings and evidence taken upon the investigation or hearing and upon which the order complained of is based to be transmitted to the clerk of the circuit court. The records so filed by the board with the clerk of court shall be returned by him to the board within twenty days after the judgment of the court becomes final.

(d) Every action in a court to review any determination or order of the state board of health or to enjoin the enforcement thereof or to prevent such order or determination from becoming effective shall be commenced, and every appeal to any court or right of recourse to any court shall be taken or exercised within sixty days after the state board of health has mailed notice that it has made and filed its order after hearing as provided in paragraph (b) of this subsection. The right to commence any such action or to take or exercise any such review or right of recourse in any court shall terminate absolutely at the end of such sixty days from the mailing of such notice to the party named in said order or affected thereby. The judge's order as a result of such review shall be the order of the state board of health.

(19) **PENALTY FOR VIOLATION.** Any person, firm or corporation violating any of the provisions of this section, or any of the rules of the board adopted pursuant to this section, or operating a rendering plant without a license, is guilty of a misdemeanor and upon conviction shall be punished by imprisonment for a period of not more than six months or by a fine of not less than twenty-five dollars nor more than five hundred dollars, or by both such fine and imprisonment, and said plant may be ordered discontinued by the board.

(20) **SEVERABILITY.** If any provisions of this section are held invalid the remaining subsections or provisions shall not be affected thereby. [1939 c. 423]

**146.125 Powers of villages, cities and towns.** The provisions of section 146.11 shall not be construed as a limitation upon cities, villages and towns to license and regulate

## 146.13 MISCELLANEOUS HEALTH PROVISIONS

the construction, operation and maintenance of slaughterhouses or to prohibit the same but the powers and duties of the state board of health and federal inspection and supervision officials shall only be applicable to such slaughterhouses which are not prohibited from being constructed, operated or maintained; nor shall the provisions of section 146.12 be construed as depriving any city or village from passing any ordinance prohibiting the rendering of dead animals within the boundaries specified in subsection (7) of section 66.05 nor as nullifying any existing law or ordinance prohibiting the rendering of dead animals within such area, nor prohibiting any city or village from licensing, revoking such license, and regulating the business of rendering and transporting dead animals under sanitary conditions no less stringent than provided by said section and the rules of the board of health and any such licensing and regulation shall be construed as supplementary to the provisions of this section and the rules of the board shall in no way be construed as excusing or justifying any failure or neglect to comply with any and all of the provisions of this section and the rules of the board; but the provisions of section 146.12 shall be expressly construed as modifying the powers granted to towns and any city, village or town is empowered to take any action to be taken under the provisions of section 146.14 and to institute and maintain court proceedings to prevent, abate or remove any nuisances thereunder and to institute and maintain any action under provisions of section 280.01, 280.02 and 280.07. [1939 c. 423; 1939 c. 517 s. 9]

**146.13 Draining into highway.** In a town situated wholly within a county containing a city with three hundred thousand or more population, if anyone constructs any drain, pipe, sewer or other outlet so it discharges into a public highway infectious or noxious matter, or permits a water-closet to drain into a public highway, the board of health shall order the person, owner or occupant maintaining it, to remove it within ten days, and if he fail, he shall forfeit not less than five nor more than fifty dollars, and the board may cause its removal. To remove, the board may destroy it and may enter upon the premises. Anyone maintaining such a nuisance shall be fined not exceeding three hundred dollars or imprisoned not exceeding ninety days, or both.

**146.14 Nuisances.** (1) A "nuisance," under this section, is any source of filth or cause of sickness. The state board of health may order the abatement or removal of a nuisance on private premises, and if the owner or occupant fails to comply, the board, or its agent, may enter upon the premises and abate or remove such nuisance.

(2) If a nuisance be found on private property the local board of health shall order its abatement or removal within twenty-four hours, and if the owner or occupant fails to comply he shall forfeit not less than five nor more than fifty dollars, and the board may abate or remove the nuisance.

(3) If the local board of health be refused entry to any building or vessel to examine into and abate, remove or prevent a nuisance, any member may complain under oath to a justice of the peace, whether or not such justice be a member of the board, stating the facts in his knowledge and the justice shall issue a warrant commanding the sheriff or any constable of the county to take sufficient aid, and being accompanied by two or more of the board of health, and under their direction, between sunrise and sunset, abate, remove or prevent the nuisance.

(4) In cities under general charter the health commissioner or a person under him may enter into and examine any place at any time to ascertain health conditions, and anyone refusing to allow such entrance at reasonable hours shall be fined not less than ten nor more than one hundred dollars; and if the commissioner deems it necessary to abate or remove a nuisance found on private property, he shall serve notice on the owner or occupant to abate or remove within a reasonable time, not less than twenty-four hours; and if he fails to comply, or if the nuisance is on property whose owner is a nonresident, or cannot be found, the commissioner shall cause abatement or removal.

(5) The cost of abatement or removal of a nuisance by health officials under section 146.14 or 146.15, may be collected from the owner or occupant, or person causing, permitting or maintaining the nuisance, or may be charged against the premises and upon certificate of the health official, assessed as are other special taxes.

**Note:** State board of health may require either landlord or tenant to remedy water pollution or to itself remedy such condition and have cost thereof placed upon tax roll against property. 20 Atty. Gen. 827.

Public nuisance may be summarily abated by health commissioner of general charter city, under (4), or it may be abated by action in name of state under 280.02 either by attorney-general or by leave of circuit court. 24 Atty. Gen. 658.

**146.15 Information.** State officials, physicians of mining, manufacturing and other companies or associations, officers and agents of a company incorporated by or transacting business under the laws of this state, shall when requested, furnish, so far as practicable, the state board of health or its secretary any information required touching the public health; and for refusal shall forfeit ten dollars.



**146.16 Expenses.** Expenses incurred under chapters 142 to 146, inclusive, not made otherwise chargeable, shall be paid by the town, city or village.

**146.17 Limitations.** Nothing in the statutes shall be construed to authorize interference with the individual's right to select his own physician or mode of treatment, nor as a limitation upon the municipality to enact measures in aid of health administration, consistent with statute and acts of the state board of health.

**146.18 Child welfare.** (1) The state board of health shall prepare and submit to the proper federal authorities a state plan for maternal and child health services. Such plan shall conform with all requirements governing federal aid for this purpose and shall be designed to secure for this state the maximum amount of federal aid which can be secured on the basis of the available state, county, and local appropriations. It shall make such reports, in such form and containing such information, as may from time to time be required by the federal authorities, and comply with all provisions which may be prescribed to assure the correctness and verification of such reports.

(2) No official, agent or representative of the state board of health, by virtue of this section, shall have any right to enter any home over the objection of the owner thereof, or to take charge of any child over the objection of the parents, or either of them, or of the person standing in loco parentis or having custody of such child. Nothing in this section shall be construed as limiting the power of a parent or guardian or person standing in loco parentis to determine what treatment or correction shall be provided for a child or the agency or agencies to be employed for such purpose.

(3) The state board of health and vital statistics shall use sufficient funds from the appropriations now made by subsections (1) and (13) of section 20.43 of the statutes, for the promotion of the welfare and hygiene of maternity and infancy to match the funds received by the state from the United States under the provisions of such act of congress. [1935 c. 556]

**146.19** [Renumbered sections 93.07, 97.71 (1), (2), (3), 97.72 (4), by 1935 c. 550 s. 8, 280, 281, 285]

**146.20 Poisons, dispensing regulated.** (1) No person shall sell or deliver any of the poisonous salts or compounds of antimony, arsenic, chromium, lead, mercury, silver, tin or zinc, the concentrated mineral acids; oxalic, carbolic or hydrocyanic acids or their salts, formaldehyde, yellow phosphorus, the essential oils, of almonds, pennyroyal, rue, savin or tansy; croton oil, creosote, chloroform, cantharides, aconite, belladonna, bitter almonds, colchicum, cotton root, Cannabis indica, digitalis, ergot, hyoseyamus, lobelia, nux vomica, physostigma, strophanthus, stramonium, veratrum viride, or any of the poisonous alkaloids or glucosides derived from the foregoing or in any other virulent poison, unless it be upon the prescription of authorized practitioners of medicine, dentistry or veterinary medicine, except as follows:

(a) The dispenser shall ascertain that the applicant is aware of the poisonous character and desires it for a lawful purpose.

(b) He shall plainly label the container with the name of the substance, the word "Poison," and the name and address of the dispenser.

(c) Before delivery (except of Paris green and sulphate of copper) he shall record in a book kept for that purpose, the name of the article, the quantity, the purpose, the date, the name and address of the person for whom procured, and the name of the individual personally dispensing the same; and said book shall be preserved by the owner thereof for at least three years after the date of the last entry therein, and shall be open to inspection by authorized officers.

(d) If the applicant be under fourteen years of age, he must have the written order of an adult person.

(2) This section does not apply to manufacturers and wholesalers selling at wholesale to licensed pharmacists or others, but the container shall be labeled with the name of the substance, the word "Poison," and the name and address of the manufacturer or wholesaler.

(3) A "Poison" label is not required when a single container or when one-half ounce fluid or avoirdupois does not contain more than an adult medicinal dose nor in the case of liniments, ointments or other external preparations sold in good faith as such, and plainly labeled "for external use only," nor in the case of pills, tablets or lozengers, when the dose recommended does not contain more than one-quarter of an adult medicinal dose. [1935 c. 306]

**146.21 Placing drugs forbidden.** Except as authorized by law, no person shall put any drug, medicine or chemical, or any compound or combination thereof in any public place, or, without the consent of the owner or occupant upon any private premises, nor cause it to be done. [1935 c. 306]

## 146.22 MISCELLANEOUS HEALTH PROVISIONS

**146.22 Penalties.** Any person who shall violate any of the provisions of sections 146.20 or 146.21 shall be guilty of felony and upon conviction shall be punished by a fine of not less than one hundred dollars nor more than one thousand dollars, or by imprisonment in the house of correction or state prison or other state or county institution for not less than one year nor more than five years. [1935 c. 306]



OTHER LAWS RELATING TO NUISANCES

**Removal of rubbish—Stats. 66.05 (4)** Cities and villages may cause the removal of ashes, garbage, and rubbish from such classes of places therein as the board or council shall direct. The removal may be from all such places or from those whose owners or occupants desire the service. Districts may be created and removal provided for certain of them only, and different regulations may be applied to each removal district. The cost of removal may be provided for by special assessment against the property served, by general tax upon the property of the respective districts, or by general tax upon the property of the city or village.

**Razing of buildings—Stats. 66.05 (5)** (a) The governing body or the inspector of buildings or other designated officer in every municipality may order the owner of premises upon which is located any building or part thereof within such municipality which in his or their judgment is so old, dilapidated or has become so out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human habitation, occupancy or use, and so that it would be unreasonable to repair the same, to raze and remove such building or part thereof, or if it can be made safe by repairs to repair and make safe and sanitary or to raze and remove at the owner's option. The order shall specify a time in which the owner shall comply therewith and specify repairs, if any. It shall be served on the owner of record or his agent where an agent is in charge of the building and upon the holder of any incumbrance of record in the manner provided for service of a summons in the circuit court. If the owner or a holder of an incumbrance of record cannot be found the order may be served by posting it on the main entrance of the building and by publishing in the official newspapers of the municipality for two consecutive publications at least ten days before the time limited in the order commences to run.

(b) If the owner shall fail or refuse to comply within the time prescribed, the inspector of buildings or other designated officer shall cause such building or part thereof to be razed and removed either through any available public agency or by contract or arrangement with private persons, or closed if unfit for human habitation, occupancy or use. The cost of such razing and removal or closing shall be charged against the real estate upon which such building is located and shall be a lien upon such real estate, and shall be assessed and collected as a special tax. When any building has been ordered razed and removed the governing body or other designated officer under said contract or arrangement aforesaid may sell the salvage and valuable materials at the highest price obtainable. The net proceeds of such sale, after deducting the expenses of such razing and removal, shall be promptly remitted to the circuit court with a report of such sale or transaction, including the items of expense and the amounts deducted, for the use of the person who may be entitled thereto, subject to the order of the court. If there remains no surplus to be turned over to the court, the report shall so state. If the building or part thereof is insanitary and unfit for human habitation, occupancy or use, and is not in danger of structural collapse the building inspector shall post a placard on the premises containing the following words: "This Building Cannot Be Used for Human Habitation, Occupancy or Use." And it shall be the duty of the building inspector or other designated officer to prohibit the use of the building for human habitation, occupancy or use until the necessary repairs have been made. Any person, firm or corporation who shall rent, lease or occupy a building which has been condemned for human habitation, occupancy or use shall be liable to a fine of not less than five dollars nor more than fifty dollars for each week of such violation.

(c) Anyone affected by any such order shall within thirty days after service of such order apply to the circuit for an order restraining the inspector of buildings or other designated officer from razing and removing such building or part thereof or forever be barred. Hearing shall be had within twenty days and shall be given precedence over other matters on the court's calendar. The court shall determine whether the order of the inspector of buildings is reasonable, and if found reasonable the court shall dissolve the restraining order, and if found not reasonable the court shall continue the restraining order or modify it as the circumstances require. Costs shall be in the discretion of the court. If the court finds that the order of the inspector of buildings is unreasonable, the inspector of buildings or other designated officer shall issue no other order pursuant to the authority of this section in regard to the same building or part thereof until its condition is substantially changed. The remedies herein provided shall be exclusive

## MISCELLANEOUS HEALTH PROVISIONS

remedies and anyone affected by such an order of the inspector shall not be entitled to recover any damages for the razing and removing of any such building.

(d) "Building" as used in this subsection includes any building or structure.

**Disposition of carcasses—Stats., Section 95.50** (1) No person shall deposit or throw or allow to be deposited or thrown into any stream, lake or swale, or leave or deposit or cause to be left or deposited upon any public highway or other place the carcass of any animal; nor deposit or leave or permit to be deposited or left upon any premises under his control any dead animal exposed in such manner as to be reached by dogs or wild animals for a longer period than twenty-four hours in the months of April to November, inclusive, or forty-eight hours during the months of December to March, inclusive.

(2) No person shall transport, haul or drag or permit to be transported, hauled or dragged along any public highway in this state the carcass of any animal suspected of having died from anthrax, blackleg, foot and mouth disease, sleeping sickness, or glanders, or any other disease which the department may designate as highly dangerous. All such carcasses shall be burned or be buried at least four feet below the surface of the ground, and shall be completely covered so as to prevent their being reached by wild animals or dogs. Whenever it is necessary to transport any such carcass across any public highway for burial, it shall be transported in such manner as not to contaminate any part of the public highway. The carcasses of animals dying from other communicable diseases may be transported to and disposed of in rendering plants under such regulations as shall be prescribed by the department.

(3) Any dead animal found upon a public highway or other public place shall, in case the owner of such animal cannot be found, be buried or otherwise disposed of at public expense by the proper health officer of the town, city or village wherein such animal is found. [1935 c. 550 s. 109, 160]

## ACTION AT LAW TO ABATE NUISANCES

**280.01 Jurisdiction over nuisances.** Any person may maintain an action to recover damages for and to abate a private nuisance or any person, city, village or town may maintain an action to recover damages or to abate a public nuisance from which injuries peculiar to the complainant are suffered, so far as necessary to protect the complainant's rights and to obtain an injunction to prevent the same. [1935 c. 541 s. 375; 1939 c. 423.]

**Note:** Nuisances, public or private, may be abated, whether the acts constituting them be declared so by statute or not, even though they also constitute crimes. *State ex rel. Cowie v. La Crosse Theaters Co.*, 286 NW 707.

**280.02 Injunction against public nuisance, time extension.** An action to enjoin a public nuisance may be commenced and prosecuted in the name of the state, either by the attorney-general upon his own information, or upon the relation of a private individual, or a city, village or town, having first obtained leave therefor from the court. The same rule as to liability for costs shall govern us in other actions brought by the state. No stay of any order or judgment enjoining or abating, in any action under this section, may be had unless the appeal be taken within five days after notice of entry of such judgment or order or service of the injunction. Upon appeal and stay, the return to the supreme court shall be made immediately. [1935 c. 541 s. 376; 1939 c. 423.]

**Note:** Statute giving council control of city property and navigable waters did not authorize city to maintain action in own name instead of in state's name to abate nuisance and purprestures in Lake Monona. *Madison v. Schott*, 211 W 23, 247 NW 527.

Under 280.02, Stats. 1937, a city has no power to bring an action to abate a public nuisance. *Juneau v. Badger Co-operative Oil Co.*, 227 W 620, 634, 279 NW 666.

Section 280.02, Stats. 1937, applies to an action by the state brought on relation of a private person, having obtained leave therefor from the court. The relator need not show that he sustains special damage from the nuisance. *State ex rel. Cowie v. La Crosse Theaters Co.*, 286 NW 707.

See note to 146.14, citing 24 Atty. Gen. 658.

**280.03 Judgment.** In such actions, when the plaintiff prevails, he shall, in addition to judgment for damages and costs, also have judgment that the nuisance be abated unless the court shall otherwise order. [1935 c. 541 s. 377.]

**280.04 Execution and warrant.** In case of judgment that the nuisance be abated and removed the plaintiff shall have execution in the common form for his damages and costs and a separate warrant to the proper officer requiring him to abate and remove the nuisance at the expense of the defendant.



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**280.05 Warrant may be stayed.** The court may, on the application of the defendant, order a stay of such warrant for such time as may be necessary, not exceeding six months, to give him an opportunity to remove the nuisance, upon his giving satisfactory security to do so within the time specified in the order.

**280.06 Expense of abating, how collected.** The expense of abating such nuisance pursuant to such warrant shall be collected by the officer in the same manner as damages and costs are collected upon execution; and such officer may sell any material of any fences, buildings or other things abated or removed as a nuisance as personal property is sold upon execution and apply the proceeds to pay the expenses of such abatement, paying the residue, if any, to the defendant. [1935 c. 541 s. 378.]

### Comment

#### NUISANCES AND NUISANCE-CREATING ESTABLISHMENTS

**Duties of local health boards.** Section 146.14 of the statutes provides in part that if a nuisance is found on private property the local board of health shall order, in writing, its abatement or removal within twenty-four hours and if the owner or occupant fails to comply he shall forfeit not less than \$5 nor more than \$50, and the board may abate or remove the nuisance.

Any expense incurred by local boards of health in the abatement of nuisances in cases where the written orders of the board are not complied with is a just charge against the property on which the nuisance is located and should be collected in the same manner as a special or general tax is collected.

In cases where a local board of health is refused entry to any premises for the purpose of examining into and abating, removing or preventing a nuisance any member of the board may complain under oath to a justice of the peace and the justice shall issue a warrant commanding the sheriff or any constable of the county to take sufficient aid, and being accompanied by two or more members of the board of health, and under their direction, between sunrise and sunset, abate, remove or prevent the nuisance. Local boards of health should not hesitate to act in the abatement of nuisances provided the action taken is without malice and the fact of the existence of a nuisance is clearly established.

*Our supreme courts have held in a large number of cases that while an individual may use his property as he sees fit, yet he cannot use it in such a way as to create a nuisance detrimental to health or to interfere with the peace and comfort of his neighbors.*

**What constitutes a nuisance.** In dealing with nuisances, health boards and health officers should thoroughly comprehend what is implied in the term, and the several principles that should govern their action in such cases.

It would be well for the members of every board of health to acquaint themselves as fully as possible with all the facts relating to any existing nuisance or thing which may become a nuisance within their jurisdiction, and apply to these facts the existing law, and thus ascertain in what way they shall proceed to prevent or remove the same. Misdirected zeal is sometimes as harmful as lack of zeal. Therefore, in cases involving doubt it is always advisable to take legal counsel before proceeding to extreme measures.

**Actionable nuisances.** An actionable nuisance is said to be anything wrongfully done or permitted which injures or annoys another in the enjoyment of his legal rights. Every person has the legal right to the fullest enjoyment of his life and health. Anything, then, which injures or annoys the public in the enjoyment of life or health is a nuisance which it is the duty of boards of health, as guardians of the public health, to abate. Any classification of nuisances will be necessarily imperfect, yet, for the purpose of this subject it may be said that the public health nuisances are of two kinds.

1. Those which are such from their very nature, which cannot exist in the vicinity of habitations without causing offense to the senses and injury to the health, such, for instance, as exposed and decaying carcasses of dead animals, or accumulation of offal or fecal matter in exposed places.

2. Those which become nuisances by reason of misuse or negligent or an otherwise harmless and perfectly lawful object, business or occupation, as for example, slaughterhouses, rendering establishments, mill ponds or burying grounds.

**Method of procedure.** "The methods of procedure to be adopted for the removal of any nuisance will vary according as the nuisance to be abated comes within one or the other of these classifications. If the danger to the public health is imminent, and safety requires the immediate suppression of the nuisance, the board of health, or any indi-

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vidual affected thereby, would be protected if they should proceed at once to suppress it, for the safety of the people is the highest law. If any nuisance is found in a public place it would be the duty of the board to see to its immediate removal. On the other hand, a mill pond, a slaughterhouse or a burial ground are not necessarily offensive or unhealthy, and their use is perfectly legal. It is only their misuse that makes them a nuisance. A mill pond may be maintained in the midst of a thickly populated community without being in the slightest degree detrimental to the public health. A slaughterhouse may be conducted with such perfect cleanliness as to be no more offensive in a sanitary sense than a planing mill. Whether a business or thing not in itself a nuisance is so managed or suffered to exist as to be a nuisance, is a fact which must be determined by the courts, upon evidence. A board of health cannot decide that to be a nuisance which is not so in itself. Only upon the judgment of a court of competent jurisdiction can a board of health legally ascertain whether a business is a nuisance, so as to authorize them to abate it. Of course any collection of offal or filth about a slaughterhouse may be removed by a board of health under the authority conferred on it by the statutes, but the suppression of the business itself can only follow a judicial determination that it is so conducted as to be injurious to the public health.

**Public and private nuisances.** What is a reasonable use of one's property cannot be determined by any useful general rules, but must depend upon the circumstances in each case. The use of property in one locality or under some circumstances may be reasonable and lawful, which, under other conditions, would be unreasonable and a nuisance. In order that the act or thing should constitute a public nuisance, it must be in a public place, or in a place where it is calculated to become an offense to all persons of ordinary sensibilities, who, in the exercise of their legal right, come within the sphere of its operation.

To constitute a public nuisance, the thing must be such as, in its nature of its consequence, is a nuisance, an injury or a damage to all persons who come within the sphere of its operation, though it may be so in a greater degree to some than it is to others. In general terms, anything which endangers the health or safety of the public or of any considerable part of it, is a common nuisance. It is no defense that the business, trade or occupation which occasions the nuisance is a useful one which contributes largely to the enhancement of the wealth or prosperity of the community or that it is in reality a public benefit.

Any person is guilty of committing a nuisance whose unwarranted act or omission of legal duty causes the injury complained of. In other words, he is responsible for a nuisance who either creates it or continues it. When a nuisance exists upon lands, it is a general rule that it is the occupant of the lands, and he alone, to whom responsibility for the nuisance, *prima facie*, attaches; but the owner of the lands is responsible if he has created or maintained the nuisance.

A public nuisance is an unlawful act or omission which obstructs or causes inconvenience or damage to the public in the exercise of rights common to all citizens. Its effects are theoretical injuries to all citizens, although not necessarily injury to all in like degree.

A private nuisance is one by which the rights of individuals only, and not those of the public in general, are injuriously affected. Such a wrong constitutes a trespass, for which the remedy is by private action at law, or suit in equity, as in other cases of private injury, actual or threatened. A nuisance is of a mixed character when it constitutes an offense against the rights of all citizens and at the same time amounts to a private nuisance, because its effects are especially and peculiarly injurious to the persons and property of individuals.

The fact that a thing is a nuisance, having been established, the thing may be destroyed, removed, or so regulated that it will cease to be a nuisance.

The legislature may restrain any use of private property which tends to the injury of public interests, even though the restriction interferes with the free and unrestricted, or beneficial use of private property.

## SLAUGHTERHOUSE REGULATIONS

The state board of health is authorized and required by section 146.11 of the statutes to adopt and enforce rules and regulations relating to the construction and operation of slaughterhouses so as to prevent the creation of a nuisance of other conditions inimicable to the public health. Acting under this authority the board has adopted and published a code of rules outlining the minimum requirements under which slaughterhouses can be constructed and operated in this state. In a number of localities where each meat



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market maintained a slaughterhouse of its own, these individual slaughterhouses have been abandoned and one new slaughterhouse providing ample facilities for the use of all the meat markets, has been constructed. This is very desirable, as it eliminates many of the small slaughterhouses which cannot be kept in proper condition.

Copies of the rules and regulations governing the construction and operation of slaughterhouses will be sent free of charge upon request.

**Location of slaughterhouses.** Section 146.11 of the statutes defines certain definite limits within which a slaughterhouse cannot be erected or maintained. This section also makes it the duty of the mayor of the city, president of the village or the chairman of the town in which the slaughterhouse is located to enforce the provisions of the law under penalty of a fine of not less than fifteen dollars nor more than fifty dollars for each offense.

**Duty of health officers.** Local health officers are required upon complaint or upon the request of the state board of health to make such inspection of slaughterhouses as may be required to keep them in a sanitary condition. Health officers should see to it that the work of slaughtering is so done as to cause a minimum of offense and no danger either to the health of the residents in the immediate vicinity of the slaughtering house or fouling of running streams which may be a source of water supply to the community.

Anyone can, upon complaint, compel the local health board to investigate any insanitary condition, nuisance or source of ill health and it then becomes the duty of the board of health to take prompt action in the case.

When a new slaughterhouse is to be constructed or if an existing slaughterhouse is to be remodeled, a copy of the minimum state requirements should be at hand and the provisions strictly followed. A copy of these regulations will be furnished to any citizen upon request.

### NOTICE TO ABATE A NUISANCE

....., 19....  
To .....  
owner, agent, or occupier of premises situated.....  
You are hereby notified and required to have removed within.....days  
from the date of the service hereof, a certain nuisance on the above described property,  
arising from .....  
which nuisance has been declared to endanger and be prejudicial to the public health.  
On failure to do and perform which, the said nuisance will be removed at your expense,  
and a lien entered agreeably to the provisions of the law.

By order of the Board of Health,

.....  
Health Officer.

### CLEAN-UP CAMPAIGN

A clean-up day or week should be provided for each town, village and city in the State. In cities and incorporated villages this can best be accomplished by having the local council or village board adopt an ordinance providing for refuse collection on certain days at the expense of the municipality. This procedure serves as a special inducement to clean up, and any who fail to avail themselves of this assistance from the municipality should later be made to clean up at their own expense. See ordinance providing for a clean-up week.

### SANITARY REGULATIONS RECOMMENDED FOR ADOPTION BY LOCAL BOARDS OF HEALTH

**Nuisances defined.** SECTION 1. Whatever is dangerous to human life or health; whatever building or part or cellar thereof, is overcrowded or not provided with adequate means of ingress and egress, or is not sufficiently supported, ventilated, sewered, drained, lighted or cleaned; and whatever renders soil, air, water or food impure or unwholesome, are declared to be nuisances and to be illegal; and every person having aided in creating or contributing to the same, or who may support, continue or retain any of them, shall be deemed guilty of a violation of this ordinance, and shall also be liable for the expense of the abatement or remedy required.

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**Privies, cesspools, etc.** No privy pit, cesspool or reservoir into which any privy, water-closet, stable, sink or other receptacle or refuse or sewage is drained, shall be constructed or maintained in any situation or in any manner whereby, through leakage or overflow of its contents, it may cause pollution of the soil near or about habitations, or of any well, spring or other source of water used for drinking or culinary purposes; nor shall the overflow from any such reservoir or receptacle be permitted to discharge into any public place or in any wise whereby danger to health may be caused. And every such pit, reservoir or receptacle shall be cleaned and the contents thereof removed at such times and under such precautions as the board of health may prescribe. Violation of any of the provisions of this ordinance shall subject the offending party to a penalty of.....for each day's continuance of the nuisance after due notice to abate it from an authorized officer.

**House refuse, garbage, etc.** No house refuse, offal, garbage, dead animals, decaying vegetable matter, or organic waste substance of any kind, shall be thrown upon any street, road or public place, and no putrid or decaying animal or vegetable matter shall be kept in any house, cellar or adjoining outbuilding for more than twenty-four hours. Violation of any of the provisions of this ordinance shall subject the offending party to a penalty of.....

**Noxious trades.** No person or company shall erect or maintain any manufactory or place of business dangerous to life or detrimental to health, or where unwholesome, offensive, or deleterious odors, gas, smoke, deposit or exhalations are generated, without the permit of the board of health, and all such establishments shall be kept clean and wholesome so as not to be offensive or prejudicial to public health; nor shall any offensive or deleterious waste substance, gas, tar, sludge, refuse, or injurious matter be allowed to accumulate upon the premises or be thrown or allowed to run into any public waters, stream, watercourse, street or public place. And every person or company conducting such manufacture or business shall use the best approved and all reasonable means to prevent the escape of smoke, gases and odors, and to protect the health and safety of all operatives employed therein. Any violation of any of the provisions of this ordinance shall subject the offending party to a penalty of not less than..... nor more than.....for each offense.

**Unwholesome food.** No meat, fish, bird, fruit, or vegetable, milk, or anything for human food or drink, not being then fresh or properly preserved, sound, wholesome and safe for such use; nor any flesh of any animal which died by disease or which was at the time of its death in a sickly or unwholesome condition; nor the carcass or meat of any calf which was at the date of its death less than four weeks old, or of any lamb which was at the date of its death less than eight weeks old, or of any pig which was at the date of its death less than five weeks old shall be brought within the limits of this municipality, nor offered or held for sale as food therein. Any violation of any of the provisions of this ordinance shall subject the offending party to a penalty of not less than.....and by the seizure and destruction of such unsound, unwholesome, immature food substances.

HEALTH ORDINANCES

In compiling these ordinances it was not with the intention of meeting all emergencies that might arise, nor to cover all conditions existing in villages and cities that may need correction. The aim has been to prepare a suggestive set of ordinances rather than a comprehensive set. These may be changed to suit the needs and conditions that exist in each community. This will explain the omission of requirements which many may think should be included. The state board of health will be pleased to render all possible assistance to any municipality in connection with the adoption and enforcement of health ordinances and local rules and regulations.

AN ORDINANCE TO REGULATE THE KEEPING OF LIVE STOCK  
WITHIN THE VILLAGE OR CITY LIMITS

The common council or the village board of the city or village of..... county of....., state of Wisconsin, do ordain as follows:

Section 1. No stable, hog pen, chicken coop, yard or other building or pen used for the purpose of confining or housing any domestic animals or fowls shall hereafter be erected, placed, maintained or continued, upon any lot of ground in the city or village of....., unless the same be at least.....feet distant from



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a dwelling house, tenement house or part thereof, or any hotel, restaurant, boarding house or any building used for school purposes or any building wherein persons are employed, or unless the floor of such stable or building be constructed of such material and in such manner that it can be kept clean and sanitary at all times.

Section 2. All stables and other buildings wherein stock are kept shall be provided with fly-tight bins or other tightly closed receptacles for manure, of such dimensions as to contain all accumulations of manure, which shall be removed sufficiently often and in such manner as to prevent its becoming a nuisance. No manure shall be allowed to accumulate on the floor or on adjacent grounds.

Section 3. All hog pens, chicken coops or yards where domestic animals are confined shall be kept in a clean and sanitary manner and free from objectionable odors at all times.

Section 4. No manure shall be dumped or left on any street, alley, sidewalk, open area or lot in any inhabited section, or be used to grade in whole or in part any sidewalk, street, open area or lot in said section, unless said manure is completely covered with at least four inches of dirt.

Section 5. It shall be the duty of the commissioner of health or health officer, to strictly enforce the provisions of this ordinance and see that all violations thereof are promptly abated, and the violators thereof prosecuted, and it shall be the special duty of the chief of police, street commissioner, and all policemen to give attention throughout the city to any case of violation of this ordinance and promptly report to the health officer or commissioner of health, in writing, any and every violation of this ordinance within said city which shall come to their knowledge.

Section 6. Any person, firm or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than five dollars nor exceeding twenty-five dollars, or imprisonment in the county jail not exceeding thirty days for each and every violation thereof.

## AN ORDINANCE PROVIDING FOR A CLEAN-UP WEEK AND GOVERNING THE COLLECTION AND DISPOSAL OF ASHES, RUBBISH, ETC.

The common council or village board of the city or village of....., county of....., state of Wisconsin, does ordain as follows:

Section 1. No person, firm or corporation shall deposit, or cause to be deposited, in any street or public or private alley any filth, refuse, garbage, ashes, rubbish, cuspidor cleanings or any animal or vegetable matter from any source whatsoever. No person, firm or corporation shall create any nuisance upon the lot of another by throwing any slops or filth thereon, or by transferring in any way the filth from his own lot to the lot of another.

Section 2. No part of the contents of, or substance from, any sink, privy or cess-pool, nor any manure, ashes, garbage, dirt or waste water shall be thrown by any person or persons, or be allowed to run or drop upon, or remain in any street or public place, nor shall the same be thrown or allowed to fall or run into any of the waters surrounding said city, save through the public sewers where available.

Section 3. It shall be the duty of every owner, lessee or tenant of any vacant, sunken or excavated lot in said....., to keep the same at all times clean and inoffensive, and when required by the local board of health to provide around the same a proper fence, so as to effectually prevent the throwing or depositing therein or thereupon, any garbage or offensive thing whatsoever.

Section 4. No person, firm or corporation shall suffer or permit any cellar, vault, private drain, pool, sink, privy, sewer or other place, upon any premises or grounds belonging to or occupied by him or them to become offensive or injurious to the public health.

Section 5. No person, firm or corporation having control or charge of any lot, tenement, premises, building or other place shall cause or permit any nuisance to be or remain in or upon said lot, tenement building or other place, or between the same and the center of the street, lane or alley adjoining.

Section 6. All residents of the city or village of....., whether the owners or occupants of the premises under their control and supervision, are hereby ordered to clean up, destroy and remove all garbage, refuse, ashes, manure, tin cans and other waste materials in, upon and adjacent to the respective premises, and to thoroughly

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clean such refuse, garbage and other waste materials from gutters adjacent to said premises, on or before the second Tuesday of May in each year and at such other times as the local board of health, health officer or health commissioner may require. The week following the first Tuesday in May of each year is hereby fixed as a week to be known as "clean-up week." During this week all refuse, garbage, when placed in proper containers such as boxes or barrels, and other waste material delivered to the street curb by the owner or occupant of any premises within the city or village limits, will be carried away and properly disposed of by the city or village free of charge. In case the owner or occupant of any premises shall neglect or refuse to clean up and remove from said premises all refuse, ashes, garbage, manure and other waste material within the time specified in this section, the health officer or health commissioner shall have the same removed and the expense incurred shall be made a charge against the property and such expense shall be a lien upon the premises.

Section 7. It shall be the duty of the commissioner of health, or health officer, to strictly enforce the provisions of this ordinance, and it shall be the special duty of the chief of police, street commissioner and all policemen to promptly report to the health officer, or commissioner of health, in writing, any and every violation of this ordinance within said city which shall come to their knowledge.

Section 8. Any person, firm or corporation violating any of the provisions of this ordinance shall, upon conviction thereof, be fined not less than ten dollars nor more than one hundred dollars for each offense, or by imprisonment in the county jail for not less than five days nor more than thirty days.

AN ORDINANCE REGULATING THE COLLECTION AND DISPOSAL OF  
GARBAGE IN THE CITY OF....., COUNTY OF.....,  
STATE OF WISCONSIN

The common council or village board of the village or city of.....,  
do ordain as follows:

Section 1. For the purposes of this ordinance the word "garbage" as used herein shall include all kinds of organic refuse resulting from the preparation of food, and all decayed or spoiled food products from any source whatever.

Section 2. A garbage district is hereby established, which shall include all of the territory within the village or city limits and which shall be governed by the following regulations:

Section 3. Each and every householder or occupant of any dwelling house, boarding house, restaurant, or any place of business having garbage to dispose of, who does not otherwise provide for the disposal of this garbage in a sanitary manner, shall provide one or more metal cans sufficient to receive all garbage that may accumulate between the times of collection; each can, except when otherwise especially permitted, to have a capacity not to exceed 10 gallons, and provided with a bail or handles and tight fitting cover. These cans must be so placed that they shall be at all times readily accessible for removing or emptying the same, and no other receptacle shall be used for garbage.

Section 4. All garbage accumulating between the times of collection shall be placed in such cans, *Provided*, That no tin cans, wire or metal of any kind, glass, china, crockery or coarse rubbish shall be placed in such cans or receptacles.

Section 5. All garbage shall be well drained before being deposited in said cans, and shall be removed once a week by a licensed garbage collector, except in cases of hotels, restaurants and boarding houses where the garbage shall be collected and removed.....

The expense of such collection shall be paid for by the owner, agent, occupant or tenant of the premises from which the said garbage is collected, but in no instance shall the fee charged for such collection exceed .....cents per week for each can, whole or part. In case of hotels or restaurants, tight barrels with tight fitting covers, when provided with handles, may be used in place of cans.

Section 6. The garbage collector shall provide a covered tank or wagon, so constructed that it will not leak or spill, in which all garbage to be removed shall be collected and conveyed as least one-fourth of one mile outside the city limits or to such place as the village board or city council may provide, there to be properly disposed of under the direction of the local health officer or commissioner of health.

Section 7. The wagon or conveyors used for the collection of garbage shall be kept clean and as free from offensive odors as possible; and shall not be kept in any street,



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alley or public place, or upon any private premises longer than is reasonably necessary to collect the garbage, or within the city limits except by permission of the local health officer or health commissioner.

Section 8. It shall be the duty of the commissioner of health or health officer, to strictly enforce the provisions of this ordinance and see that all violations thereof are promptly abated and the violators thereof prosecuted, and it shall be the special duty of the chief of police, street commissioner, ..... and all policemen to give attention throughout the city to any case of violation of this ordinance and promptly report to the commissioner of health, in writing, every violation of this ordinance within said city which shall come to their knowledge.

Section 9. Any person, firm or corporation failing to comply with the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than five dollars nor exceeding twenty-five dollars, or imprisonment in the county jail not exceeding thirty days for each and every violation thereof.

### AN ORDINANCE REQUIRING SEWER CONNECTIONS AND GOVERNING CONSTRUCTION AND LOCATION OF PRIVIES

The common council or village board of the city or village of....., county of....., state of Wisconsin, do ordain as follows:

Section 1. Whenever any line of sewer and water is laid along any street, avenue, lane or public alley in the city or village of....., and the same is ready for use, it shall be the duty of the commissioner of health or the health officer to notify, in writing, the owners or their agents and the occupants of all houses, tenements or other buildings situated on lots abutting upon, or accessible to the street, avenue or public alley, along which said sewer and water is laid, to connect all closets, privies, sinks, bathtubs, lavatories and urinals upon their respective lots with said sewer lines so that the contents of the same will discharge into such sewer in a sanitary manner within sixty days after date of notice of such service.

Section 2. All owners of improved real estate in the city or village of....., which shall be located upon, near or accessible to any line of sewer and water, maintained by said city or village, or abutting any street, avenue, public alley or way along which the city sewer and water lines are laid, shall connect with said sewer line all water-closets, bathtubs, lavatories, sinks, urinals and outside frost-proof closets\*, so that their contents will empty into such sewer in accordance with the provisions of the state plumbing code and such additional local rules and regulations not inconsistent therewith.

Section 3. It shall be unlawful for any person, firm or corporation to build, erect, construct, keep or maintain, or cause to be built, constructed, kept or maintained, any privy or surface closet abutting any street, avenue or public alley, or way, along which the city or village maintains a sewer line and water main, or upon any lot accessible thereto.

Section 4. It shall be unlawful to build, erect, keep or maintain any building to be occupied by one or more persons without providing and maintaining for use of such occupants, adequate water-closets connected with the city sewer so as to empty the contents thereof into said sewer, or without providing a sanitary surface privy built according to plans and specifications approved by the local health officer or health commissioner.

Section 5. It shall be unlawful to build any surface privy or dry closet, or cause the same to be built or constructed, on any lot or premises within the city limits, without first having obtained a permit from the health officer or health commissioner.

Section 6. No permit shall be granted to build, erect or construct, or keep or maintain, any surface privy or dry closet on any lot or premises abutting a street, avenue, public alley or way, along which the city maintains a sewer and water main, or on a lot accessible thereto.

Section 7. It shall be the duty of the commissioner of health or health officer, to strictly enforce the provisions of this ordinance and to see that all violations thereof are promptly abated and the violators thereof prosecuted, and it shall be the special duty of the chief of police, street commissioner, and all policemen to promptly report to the health officer or commissioner of health, in writing, any and every violation of this ordinance within said city which shall come to their knowledge.

\*Provision should be made for the care of industrial wastes when necessary.

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Section 8. Any person, firm or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than ten dollars nor more than fifty dollars, or imprisonment in the county jail not exceeding thirty days for each and every offense.

AN ORDINANCE TO REGULATE THE DUMPING OF GARBAGE OR  
OTHER ANIMAL OR VEGETABLE MATTER WITHIN THE  
LIMITS OF THE ..... OF .....

The ..... of the....., County of....., State of Wisconsin, do ordain as follows:

Section 1. The words "garbage or other waste" as used herein shall include refuse from animal and vegetable matter, food supplies which have been rejected for use, refuse from the market, house and store refuse, floor sweepings, kitchen and table waste of animal or vegetable matter, vegetables, meat, fish, bones and all broken glass, china-ware, paper, rags, bottles or shoes, the dung from cattle, horses, mules and other animals, stable litter and any other matter of a similar kind.

Section 2. Any person, persons, firm or corporation dumping garbage or other refuse material in the.....of.....must first obtain a permit therefor from the health officer of said.....which permit shall designate the place where the garbage or other refuse will be deposited and the precautions which must be taken to prevent the creation of a nuisance.

Section 3. Any person, firm or corporation owning or managing real estate property within the limits of the.....of.....desiring to collect garbage or other waste material for the purpose of filling must first obtain permission from the health officer of the.....of.....to maintain a dump, and such person, firm or corporation will be required at all times to keep the surface of the dumping grounds in a cleanly condition by burying all putrescible animal and vegetable matter with at least four inches of fresh dirt within twenty-four hours after the same is deposited on the dumping area.

Section 4. Any person, firm or corporation desiring a permit to remove, transport or carry garbage or other waste material into the.....of.....shall file with the local health officer of said.....a written agreement to comply with all the ordinances of the said.....and the rules and regulations of the local board of health.

Section 5. No person, firm or corporation owning, occupying or managing any real estate property within the limits of the.....of.....shall cause or permit any garbage or other waste material other than that produced on the premises to be placed thereon without a permit from the local health officer and only in accordance with the terms and conditions of such permit.

Section 6. Any accumulation or deposit of putrescible animal or vegetable matter in or upon any lot of land near any inhabited dwelling house, or any public or private place within the.....of....., which shall cause the air in such dwelling house or in such public place or highway to become noxious and offensive, or in such a state to breed flies, mosquitoes or other insects, or otherwise become injurious to the public health shall be termed and is hereby declared to be a nuisance.

Section 7. Any person, firm or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and shall be punished as provided for by section 143.11 of the statutes, which provides that any person who shall violate any law relating to the public health for which violation no other penalty is prescribed or any order or regulation of any board of health, lawfully made and duly published, shall be punished by imprisonment in the county jail not more than three months or by a fine not exceeding one hundred dollars.

Section 8. This ordinance shall take effect and be in force from and after its passage and publication.

AN ORDINANCE RELATING TO THE LOCATION, CONSTRUCTION  
AND MAINTENANCE OF PRIVY VAULTS AND CESSPOOLS

The.....of the.....of....., county of....., state of Wisconsin, do ordain as follows:

Section 1. After the passage and publication of this ordinance it shall be unlawful to build any surface privy, dry closet or cesspool, or cause the same to be built or



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constructed on any lot or premises within the.....limits without first having obtained a permit from the local health officer. The permit required under this section shall be issued without charge.

Section 2. No permit shall be granted to build, erect or construct any surface privy, dry closet or cesspool within ten (10) feet of the line of any street, within five (5) feet of the party line or fence of an adjacent lot, or within twenty-five (25) feet of the door or window of any dwelling, factory or building used by man.

Section 3. Whenever, in the judgment of the health officer, any privy vault or cesspool is located so near to a private well that there is danger of polluting the well water, the health officer may require that the privy vault be constructed of water-tight material.

Section 4. No person owning or occupying any premises shall knowingly construct or keep or allow to be kept on their premises any privy, the contents of which are exposed to view or can be seen from any street or other public place, or to allow the contents of the privy vault to discharge on to the surface of the ground or become offensive or insanitary. The provisions of this section shall apply to all privies now maintained within the corporate limits of the.....of..... The owners or occupants of premises on which privies are maintained without a vault will be given not to exceed sixty days from and after the publication of this ordinance to construct a suitable vault.

Section 5. Every privy vault, dry closet or cesspool shall be cleaned when the vault is filled to within one (1) foot of the surface of the ground and the contents disposed of in a sanitary manner or the shelter house moved to a new location and provided with a new vault, the contents of the original vault to be filled with fresh earth so as to prevent the creation of nuisance.

Section 6. It shall be the duty of the health officer to strictly enforce the provisions of this ordinance and see that all violations thereof are promptly abated and the violators prosecuted. It shall be the especial duty of the.....constable, street commissioner, the.....attorney and the.....to assist the health officer in enforcing the provisions of this ordinance.

Section 7. Any person, firm or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than ten dollars nor more than fifty dollars together with the cost of prosecution, or imprisonment in the county jail for not more than thirty days for each and every violation thereof.

Section 8. All ordinances or parts of ordinances in confliction with the provisions of this ordinance are hereby repealed. This ordinance shall take effect and be in force from and after its passage and publication.

Passed.....  
Published.....

AN ORDINANCE CONTROLLING OFFENSIVE TRADES

The village board or common council of the village or city of.....do ordain as follows:

Section 1. No person, firm or corporation shall boil, heat, dry, keep, store or manufacture any offal, swill, bones, fat, tallow or lard, or skin any skunk or other wild animal having an offensive odor, or slaughter any hog, sheep, beef, horse or other domestic animal within the corporate limits of the.....of..... Nor shall the business of rendering, bone-boiling, bone-burning, gut-cleaning, skinning, or making glue from any part of dead animals, drying, storing any blood, scrap, fat, grease, dried skunk hides or green skunk hides, or the conducting of any business or occupation that will or does generate any unwholesome, offensive or deleterious odors, gas, smoke, or exhalation, or that is or would be dangerous or detrimental to life or health, be carried on anywhere in the.....of.....without a permit from the local health officer.

Section 2. No person, or persons, engaged in the business of buying or selling rags, shall keep, store, or sort the same within one hundred (100) feet of any tenement or dwelling house, school, hotel, restaurant or creamery, except the house occupied exclusively by the person and his immediate family engaged in such business without a permit from the health officer.

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Section 3. It shall be the duty of the commissioner of health, or health officer, to strictly enforce the provisions of this ordinance, and it shall be the special duty of the chief of police, street commissioner and all policemen to promptly report to the health officer, or commissioner of health, in writing, any and every violation of this ordinance within said....., which shall come to their knowledge.

Section 4. Any person, firm or corporation violating any of the provisions of this ordinance shall, upon conviction thereof, be fined not less than ten dollars nor more than one hundred dollars for each offense, or by imprisonment in the county jail for not less than five days nor more than thirty days.

### AN ORDINANCE TO COMPEL THE OWNERS OF PRIVIES SITUATED ON LOTS ABUTTING ON SEWER TO ABATE THE SAME AND PROVIDING A PENALTY FOR REFUSAL

The Mayor and the Common Council of the City of.....do ordain as follows:

Section 1. All privies and privy vaults in this city situated upon lots or parcels of land fronting or abutting on any street or alley in and along which a public sewer has been laid, and opposite the line of such sewer, shall be removed and abated and the use thereof discontinued within thirty days after the taking effect of this ordinance. In the case of land fronting or abutting on the line of any sewer which may hereafter be laid, all privies and privy vaults shall be removed and abated and their use discontinued within sixty days after the completion of such sewer. And it shall be unlawful to use any contrivance, cesspool, dry well or other well for the purpose of a privy other than a water-closer connected with the waterworks and sewer after the expiration of said thirty and sixty day limitations respectively.

Section 2. Any owner or person in charge of any building or premises situated as hereinbefore mentioned, who shall fail to comply with any of the provisions of this ordinance, shall on conviction be punished by a fine of not less than \$10.00 nor more than \$100.00 and shall be punished by a like fine for every forty-eight hours during which he shall continue to neglect or refuse to comply therewith after the expiration of said time.

Section 3. This ordinance shall take effect and be in force from and after..... days after its passage and publication. Passed.....

### AN ORDINANCE TO PREVENT THE BREEDING OF FLIES

The Mayor and the Common Council of the City of.....do ordain as follows:

Section 1. It shall be unlawful for any person, firm or corporation to suffer or permit, or have upon their premises, whether owned or occupied by them, either one or more of the following insanitary fly-producing, disease causing conditions, to-wit:

First. Manure which is not securely protected from flies.

Second. Any privy, vault, cesspool, sink, pit or like place which is not securely protected from flies.

Third. Garbage which is not securely protected from flies.

Fourth. Vegetable waste, trash, litter, rags, or refuse of any kind, nature or description in which flies may breed or multiply.

Section 2. Every act or thing done, made, permitted, allowed, or continued in violation of section 1 of this ordinance shall be deemed a nuisance.

Section 3. In order to better carry out the provisions of this ordinance, the health officer may serve a notice in writing upon the owner, occupant or agent of any lot, building, or premises, in or upon which any nuisance declared to be such in section 1 of this ordinance may be found, or upon him who may be the cause of such nuisance, requiring him to abate the same in such manner as the city health officer may direct, and within a reasonable time, to be fixed in the notice; but failure to give notice, as provided herein, shall not relieve the author of any nuisance from the obligations to abate such nuisance, or from the penalty provided for the maintenance thereof.

Section 4. In case of neglect or refusal of any person to abate any nuisance defined by this ordinance, after notice in writing has been served upon him, as provided in section 4 of this ordinance, and within the time in said notice specified, it is hereby made the duty of the city health officer to abate or procure the abatement thereof, and the expense of such abatement shall be collected from the person so offending.

Section 5. Any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than five dollars, nor more than fifty dollars, or by imprisonment in the city jail not more than fifty days, or by both such fine and imprisonment.



**Section 6.** This ordinance shall take effect upon its passage.

In addition to ordinances herein contained, other ordinances relating to sanitation and public welfare may be obtained from the state board of health on request as follows:

1. Tavern Sanitation.
2. Township Sanitation Ordinances.
3. Plumbing, Water Supply and Drainage.
4. Abolishing of Privies by Zones.

### Supreme Court Decisions Relating to Nuisances

**Distinction between.** The difference between a public nuisance and a private nuisance, does not consist in any difference in the nature or character of the thing itself. It is public, because of the danger to the public; it is private only because the individual, as distinguished from the public, has been, or may be injured. Public nuisances are indictable. Private nuisances are actionable, either for their abatement, or for damages, or both. Whatever constitutes a public nuisance as to the public, will constitute a private nuisance, if established so as to have the same effect upon the premises or health of the private person as it would have upon the public, if established in a city or highway. *Kenney v. Koopman and Gerds*, 116 Ala. Page 310.

**Equitable jurisdiction.** To obviate that difficulty the amendment of 1882 was enacted. That restores equitable jurisdiction in the particular cases therein named. To bring cases within such jurisdiction the essential facts should be affirmatively alleged in the complaint. *Denver v. Ry. Co.*, 57 Wis., 221.

Where the ground of relief stated is purely equitable the action is equitable and triable by the court. The character of the action may be determined on an objection to a trial by jury, and if the objection is overruled defendant waives nothing by going to trial before a jury. After trial, Court may consider verdict advisory and need not order a new trial unless the proceedings were not conducted as they should have been in an equity case. But if they were not so conducted, as where the jury viewed the premises, and the judge did not, a new trial is proper. *Fraederich v. Flieth*, 64 Wis., 184.

**Jurisdiction.** An action under this section (3180) and section 3181, (In such actions, when the plaintiff prevails, he shall, in addition to the usual judgment for damages and costs, also have judgment that the nuisance be abated and removed unless the Court in which such action shall be tried shall certify, in the minutes of such trial that the abatement thereof is unnecessary), by a private person to recover damages for and to abate a nuisance is at law. In so far as these sections authorize judgment of abatement in an action by such party they abrogate the remedy in equity to abate such private nuisance. *Stadler v. Grieben*, 61 Wis., 500, 504, and cases cited.

**Liability of health officer.** The determination by a health officer that a nuisance or cause of sickness dangerous to health exists, affords no protection to persons destroying private property which in fact is no such nuisance or cause of danger, in pursuance of such determination, and does not preclude a recovery by the owner of the property for damage sustained, by its destruction, if it be found that he has been unjustly deprived of it. *Lowe v. Conroy*, N. W. 97, 942.

**Nature of action.** A private nuisance is not the subject of public prosecution, but of a private action. *Earl v. Lee*, 71 Illinois, page 193.

**Notice of injury.** Notice by one who is injured by a nuisance which causes special and peculiar damage need not be given to the author of it as a condition precedent to the maintenance of an action against him either at common law or under this section. But under a charter which provides that no action in tort shall lie or be maintained against the city unless a statement of the wrong shall be presented, etc., the statement must be made and alleged in the complaint. *Stelz v. Wausau*, 88 Wis., 618.

**Nuisances, what are not.** Stock running in street do not constitute a nuisance per se. *Kelley v. Milwaukee*, 18 Wis., 83. One who builds a dam across a navigable stream by authority of and according to law is not liable to indictment for a public nuisance. *Stoughton v. State*, 5 Wis., 291.

**Power of board; rights of property owner.** Before a final and conclusive determination can be made that property is a nuisance, and its destruction can be ordered and enforced, the owner of it must have a hearing, as a matter of right, and the right to a hearing must be found in the statute. Boards of health cannot, as to any existing state of facts, by their determination make that a nuisance which is not so in fact. It is the actual existence of a nuisance which gives them jurisdiction to act; if that actually exists and the

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jurisdiction of the board is regularly exercised, its order has all the operation and effect given it by statute, and the persons who abate the nuisance have the protection which they would not have as private persons abating, not a private nuisance especially injurious to them, but a public nuisance injurious to the general public. If there is doubt as to whether property is a nuisance or not, the board should proceed by action to restrain or abate the nuisance and thus have the protection of a judgment for what it may do. If property is threatened with destruction, or is actually destroyed, the owner of it may have his action in equity to restrain the destruction, if equity has jurisdiction under the facts, or he may bring a common-law action against all persons engaged in the abatement of the nuisance to recover his damages; and if he shows that the alleged nuisance did not in fact exist he will be entitled to judgment, notwithstanding the action of the board. *People v. Board of Health*, 140 N. Y., 1.

**Private nuisances.** "A private nuisance is defined to be anything done to the hurt or annoyance of the lands, tenements, or hereditaments of another. Any unwarrantable, unreasonable, or unlawful use by a person of his own property, real or personal, to the injury of another, comes within the definition stated, and renders the owner or possessor liable for all damages arising from such use. . . . The rule is of universal application that, while a man may prosecute such business as he chooses on his own premises, he has no right to erect and maintain a nuisance to the injury of an adjoining proprietor or of his neighbors, even in the pursuit of a lawful trade. . . . It is not necessary in these cases that the noxious trade or business should endanger the health of the neighborhood." *Heeg v. Licht*, 80 N. Y., 579.

**Private or special injury.** A nuisance to be actionable must materially affect or impair the comfort or enjoyment of individuals or the use or value of the property. *Stadler v. Grieben*, 61 Wis., 500.

Where special injury is alleged to leased property from noise and bad odors lessening its rental value, plaintiff cannot, besides having the nuisance abated, recover as for a permanent diminution of rental value, but only for loss prior to commencement of action. *Ibid*.

The court refused to abate an electric light plant situated in a manufacturing district, ground of complaint being that the machinery made a disturbing noise until a late hour of each night. *McCann v. Strang*, Wis., 72 N. W. Rep., 1117.

Where erection of a nuisance will cause private and special damage to each of several persons they have a common right to prevent its erection, or to abate it, and may join for that purpose. *Barnes v. Racine*, 4 Wis., 454; *Williams v. Smith*, 22 Wis., 594.

**Public and private.** Although a nuisance be a public one, yet it is private also if an individual sustain a special injury thereby. *Village of Cardington v. Fredericks*, 46 Ohio, 442.

Where the acts which create the public nuisance cause also private and special injury to the plaintiff, an action at law will lie. *Walker v. Shepherdson*, 2 Wis., 384.

**What constitutes a nuisance.** To be of legal cognizance the injury must be tangible, or the discomfort perceptible to the sense of ordinary people. No party is liable to another as and for a nuisance simply because he keeps a stockyard, if it is kept in such place and manner as not to contaminate the atmosphere to such an extent as to substantially interfere with the comfort or enjoyment of others, or impair the use of their property. *Stadler v. Grieben*, 61 Wis., 500; *Pennoyer v. Allen*, 56 Id., 511.

A town may maintain an action in equity in its corporate capacity, based on its special interest as the guardian of highways within it, to prevent the obstruction of one of its highways before the question of obstruction is determined in an action at law. *Neshkoro v. Nest*, 85 Wis., 126.

**Who cannot maintain action.** One who has the mere naked possession of land cannot maintain an equitable action for injury thereto. *Denver v. Ry. Co.*, 57 Wis., 218.

### Court Decisions Relating to Nuisances

**Dead animals, owner's rights thereto.** A city ordinance will not be valid where it provides in substance that immediately after the death of an animal, the owner shall be deprived of his property therein, as such a provision is a taking of private property without due process of law. *Richmond v. Caruthers*, 50 S. E., 265.

**Dead animals, disposal of.** Under an ordinance imposing upon the owner of a dead animal the duty of disposing of the carcass in such a manner that it shall not become a nuisance or of notifying one with whom the city has entered into a contract for removal



in such cases within twenty-four hours, it has been decided that for the twenty-four hours, immediately following the death of an animal the owner may dispose of the carcass in such manner as he sees fit. *Albers v. Brown*, 60 Cal., 447.

**Dead animals.** A dead animal is not a nuisance per se; it must, however, necessarily become one unless some disposition is made of it and a municipal corporation has the right to prevent carcasses of dead animals from becoming nuisances and to that end may prescribe by reasonable ordinances, the manner and time in which owners may remove them and, in case of their failure to remove them in the time specified, to provide other means. *Schoen v. Atlanta*, 97 Georgia, 697.

**Hospitals a nuisance.** Hospitals and houses for the sick are not prima facie or per se nuisances, but they might, under some circumstances, become such and be subject to injunction for maintaining a nuisance where the evidence is clear and certain. *Barnard v. Sherley*, 135 Indiana, 547.

**Insanitary housing.** A tenement house cut into small apartments and thickly inhabited by poor people in a filthy condition and calculated to breed disease during the prevalence of a contagious disease is a public nuisance which may be torn down to abate it. *Joyce on Nuisances*.

**Private nuisance.** A municipal corporation is not liable for failure or refusal to abate a nuisance maintained by a private individual upon private property and not of such a character as to amount to an obstruction of a public street or to imperil the safety of travelers thereon, and this is declared to be true, though the nuisance in question is a sewer which the municipal authorities allowed to be constructed by a private individual in part under the street, such part not being in itself the cause of any damage to the public or to private individuals. *Dalton v. Wilson*, 118 Georgia, 100.

**Board's powers.** A statute which gives a board of health "all the powers necessary and proper for the preservation of the public health and the prevention of the spreading of malignant diseases," and makes it the duty of such board "to examine into all nuisances, sources of filth injurious to the public health, and cause to be removed all filth found within the town which in their judgment shall endanger the health of the inhabitants," gives express power to decide what is filth; and if a board merely errs in judgment there can be no redress given a party who complains of its acts. *Raymond v. Fish*, 51 Conn. 80.

**Legislative power.** A statute authorizing a board of health to forbid the exercise within the city limits of any trade which is a nuisance or hurtful to the inhabitants, or dangerous to the public health, or the exercise of which is attended by noisome or injurious odors, or is otherwise injurious to their estates, and providing that during the pendency of an appeal to the jury the trade shall not be exercised, is constitutional. *Taunton v. Taylor*, 116 Mass. 254.

**Liability for negligence of employes.** The Court of Appeals of the District of Columbia decided that a municipal corporation is not liable for damage caused by the negligence of employes of the health department in the performance of their duties. The reason for this rule is that those duties are of a public or governmental character, for the general public welfare. (*Coates v. D. C.*)

**Measure of damages.** The measure of damages to the owner of the land which is injured by pollution of a stream is the difference in its value before and after the sewage was discharged into the stream. (*El Dorado v. Scruggs* (Ark.) )

**Municipality not liable for wrongful acts of its employes.** A city is not liable for the wrongful acts of its servants or their negligence in operating a septic tank; but it is liable for damages resulting from the improper construction of the apparatus which the servants are using. (*El Dorado v. Scruggs* (Ark.) )

**Owners of apartment houses required to furnish garbage cans.** A Wisconsin law which required owners of apartment houses, tenement houses, and lodging or boarding houses to provide suitable receptacles for garbage was held to be void. (*Koeffler v. State*)

### Attorney General's Opinions Relating to Nuisances

**Removal of stock yards.** A railroad company cannot be compelled to remove its stock yards if the yards are operated without negligence and with that skill and diligence to avoid noises and noxious smells.

**Nuisance abatement.** There are two ways provided by statute in which a public nuisance may be abated. A nuisance is any source of filth or cause of sickness. By Sec. 146.14 local boards of health, and health commissioners in cities under the general

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charter, are given power to summarily abate public nuisances by removal or destruction of the nuisance. The statutes enabling such procedure have been held constitutional. Sec. 146.14 does not provide for a hearing to determine whether or not the alleged nuisance is in fact a nuisance.

It is, of course, apparent that the person whose property has been destroyed might be unjustifiably deprived of such property if he were barred from bringing any action to be compensated therefor. Hence, any owner may bring action in the proper court against the health officer to recover damages sustained by such owner, if it is judicially determined that no nuisance in fact existed.

A second method of abating a public nuisance is provided for by Chapter 280, Wisconsin Statutes, which provides that an action to enjoin a public nuisance may be brought in the local circuit court, in the name of the state, either by the attorney general, or by a private individual who has obtained leave to do so by the court.

Every nuisance depends upon the facts peculiar to it. In many instances summary abatement will be found desirable, especially where no destruction of property is involved, and in others it may be more expedient to proceed through the court.

For further court decisions and attorney general's opinions on nuisances relating to stream pollution, industrial waste, sewage, garbage, and other refuse see index.

**Poultry slaughtering.** Place where chicks are killed in large numbers and prepared for freezing is a slaughterhouse or place where the business of slaughtering is conducted within the meaning of those terms in section 146.11, Statutes, and subject to regulation by the state board of health.

## RENDERING PLANTS

Ch. 423, Laws 1939, does not authorize town to prohibit construction of rendering plant.

Rules of state board of health regarding trucks employed by renderers do not apply to fur farmers collecting carcasses for food for their own animals.

Licensed renderer may lease trucks and hire drivers to operate them.

Ch. 423 applies only to dead animal carcasses not slaughtered for food or which if slaughtered become unsuitable for food.

**Fur farmer:** May cook meat and bones for own animals in open cooker; may render tallow in open cooker as incident to conduct of fur farm business; may operate hog farm in connection with fur farm. Such operation is exempt from regulatory provisions of sec. 146.12, Stats.

Under ch. 423, Laws 1939, only a licensed renderer or his employes may engage in the business of transporting carcasses of dead animals.

Sec. 146.12 (11) (b), Stats., provides for transportation of dead animals into other states under reciprocal agreements with adjoining states or under rules of the state board of health. An out-of-state renderer may not transport dead animals on Wisconsin highways unless he has a licensed plant in Wisconsin.

One engaged in the business of collecting and processing dead animals for purposes of resale to operators of fox, fur or dog farms, must obtain renderer's license.

**Note:** For other citations on nuisances see pages 67-72.

## SUMMER RESORT AND LAKE SHORE COTTAGE SANITATION

The following suggestions should be observed by owners or managers, cottagers and visitors at all summer resorts; and lake and stream plats. (See also hotel and restaurant code and lake and stream platting code copies of which may be obtained from the state board of health.)

**Water supplies.** The water supply should be pure. The source should be known and proved to be uncontaminated, and if there is the slightest suspicion that the water is unsafe, it should not be used without boiling. This is a practicable and easy method of rendering any water safe for consumption.

A second method is the use of bleach powder. Add a teaspoonful of chloride of lime to one pint of water and keep it in a well-stoppered bottle. A teaspoonful of this solution should be mixed in two gallons of water to be treated, and after standing for thirty minutes, it is then absolutely safe for drinking purposes.

If the water supply is suspected of being polluted, ask the local health officer of the township, incorporated village or city in which the well or other source of water supply is located to write the state laboratory of hygiene, at Madison, for a sterile water container so that a sample of the water may be examined. These examinations are made free of charge, when collected by the health officer, but the express charges must be prepaid.



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It is mandatory that private water supplies in connection with resort hotels be tested annually for purity.

Whenever a private water supply in connection with a hotel or restaurant is found questionable, a laboratory test is required. Many operators of hotels and restaurants have on their own initiative adopted the policy of having the private water supplies tested annually for purity. Such a practice is commendable.

Private water supplies on fair grounds throughout the state are given close attention by the hotel and restaurant division and the necessary methods of procedure for ascertaining safeness of the supplies are executed.

**Privies.** There are six fundamental requirements which must be observed in the construction and maintenance of a sanitary toilet. These are as follows:

1. The closets must be located upon ground that is well-drained and where there is absolutely no danger of contaminating the water supply used for drinking or bathing purposes, and should be provided, where necessary, with suitable approaches of cinders, cement, or gravel walks.

2. It must be so designed and constructed that it can be kept reasonably clean and in a sanitary condition at all times.

3. It must afford a reasonable amount of protection from the weather to the person using it and be reasonably convenient and safe.

4. The vault or pit must be as dark as possible and extend with suitable material at least six inches above the surface of the surrounding ground so that small animals and vermin cannot in any way get to the excreta, and be fly proof.

5. Milk of lime (freshly slaked lime) or some other equally effective disinfectant must be used in the vault and in the urinal trough in such quantities and at frequent intervals so as to disinfect and deodorize the contents. When the vault is filled to the level of the ground, it must be cleaned out and contents disposed of in such a manner that will not create a nuisance.

6. Water-flushed toilets must conform in design, construction, installation and maintenance with the provisions of the state plumbing code. (Water-flushed toilet accommodations should be provided where public water supply is available.)

**Note:** The state board of health will be pleased to furnish plans and specifications of sanitary outside toilets, designed especially for use at summer resorts, to anyone upon request. Where such toilets are desired, the board will also furnish full details for methods of installation and the location and construction of a purification, when defi-

nite information is given concerning the direction of drainage from nearest buildings, character of soil, number of people to be accommodated, depth of well; also whether dug or cased, distance from nearest residence or place of business, and location of well on premises and adjoining premises.

**Garbage and other waste.** Garbage must not be thrown into the lake or stream. A garbage can or barrel with a fly proof cover, should be used at each cottage. The contents should be removed two or three times a week and buried at least six inches under ground. No pits, into which garbage is being dumped, should be tolerated, unless each quantity of garbage is immediately covered with at least three inches of earth. The burning of garbage in bonfires is so seldom effective that it is not recommended.

Throwing tin cans, bottles, or other rubbish and refuse on the beach or on the grounds should be prohibited. A covered barrel or box should be placed at the rear of each cottage for receiving such refuse, which should be removed to some suitable place and buried as often as found necessary.

Cleaning fish upon the beach should be strictly prohibited. It should be done back from the cottage and the refuse immediately burned or buried.

Refuse from lunch counters, lemonade stands, pavilions, and other concessions must be treated as garbage and disposed of accordingly.

Throwing refuse of any kind into a lake or stream should be strictly forbidden. The emptying of drains or sewers from sinks, toilets, closets, etc., into the lake or stream without treatment is not permitted.

Do not throw dishwater out on the surface of the ground. It attracts flies and causes disagreeable odors.

**Flies.** The relation which insanitary conditions bear to breeding of flies should be carefully considered, and no material, in which flies would have an opportunity to breed should be exposed.

Wherever there is filth, there are flies.

Don't allow flies near your food.

Screen all doors and windows, especially in dining room and kitchen.

Keep garbage can closely covered.

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Nearly all of our summer typhoid is due to flies and polluted water supplies. Use fly paper, poison and flytraps.

**Industrial camp sanitation.** The state board of health has adopted and published a code of regulations establishing a minimum sanitary standard concerning the construction and operation of industrial camps. These regulations apply to all industrial camps established for the purpose of logging, ice cutting, road building or other work requiring the maintenance of camps for men engaged in such work. The term "camp" as used in these regulations is interpreted to mean places where men are employed and housed in temporary quarters such as cars, tents, buildings or other enclosures other than the bona fide homes of the employes. Particular attention is given in these minimum sanitary regulations to the question of the camp site, toilet facilities, air space, ventilation, water supply, garbage disposal, care of the sick, the construction of the bunks, the bedding and the general cleanliness of the camp. *Anyone planning to operate an industrial camp should obtain copies of these regulations before the site of the camp is located and before any construction is done.* The camp rules should also be posted in conspicuous places about the camp for the general information and instruction of the employes.

**Tourist camp sanitation.** The state board of health has adopted and published regulations upon tourist camps. Purity of water supply, sanitary condition of toilets and proper garbage disposal are required. A copy of these regulations may be obtained from the state board of health.

**Recreational camps.** A recreational camp is defined as a parcel of land with buildings, tents and equipment designed for organized educational recreation and other vacation purposes for children or adults. Recommended sanitary standards for such camps may be obtained from the state board of health.

**Civilian conservation corps camps.** C. C. C. camp regulations have been adopted by the state board of health and a copy can be obtained by writing the state board of health.

## DESTRUCTION OF INSECTS, RATS AND MICE

**Ants.** There are several varieties of ants that invade the home. They are attracted by food, especially sweets of all kinds. Keep all food in tight containers of metal or glass. Saturate ordinary sponges or rubber bath sponges with a solution of sweetened water and place near where the ants are coming into the home. When the sponges are well filled with ants drop into boiling water. Repeat this process as often as necessary. To destroy the nests pour boiling water or kerosene oil into them.

Ants can often be traced to their outdoor nests. Non-poisonous powders can be purchased for them at drug stores.

**Bedbugs.** Bedbugs may be destroyed by burning sulphur in the rooms they infest. Not less than four pounds of sulphur for each 1,000 cubic feet of space must be used, and the room must be kept tightly closed from 24 to 36 hours. All outside openings must be taped to prevent escape of the gas. All metal light fixtures, door knobs and other metallic material must be covered with a heavy coating of vasoline or other grease before burning the sulphur, and gilt picture frames should be removed from the room. Silverware should be removed.

Kerosene liberally applied to cracks and crevices in the floors, woodwork and bedsteads will aid in destroying eggs as well as the bugs themselves.

A temperature of 125° to 130° F. has been found sufficient to kill bedbugs and their eggs, but often it is not possible to raise the temperature of living quarters to such a degree. Blowtorches are sometimes used on bedsprings and other metal substances free from combustion dangers.

Frequent and careful inspection of mattresses and bedding is necessary in eradicating this pest.

**WARNING:** Beware of fire hazards in the use of kerosene, sulphur, blowtorches and excessive room-heating.

Air all rooms thoroughly before reoccupying after fumigation.

**Cockroaches.** To successfully rid the premises the entire building must be renovated. One of the simplest and most effective ways of ridding the premises of these pests is dusting their runways with commercial sodium fluoride mixed with equal amount of flour. This insecticide is best used with a dust-gun or powder-blower and should be dusted thoroughly over shelves, tables, runways around water pipes, and into cracks and crevices of all woodwork.



## MISCELLANEOUS HEALTH PROVISIONS

Keep the kitchen scrupulously clean and keep food well covered, particularly over night. Crevices in floors and woodwork should be sealed with putty or paint.

Powdered borax mixed with a little sugar is another remedy but is successful only where food is scarce.

**WARNING:** Beware of the poison hazard to human beings and pets in the use of sodium fluoride and borax.

**Fleas.** The flea that annoys human beings is the same variety that is found on animals such as dogs, cats, etc. The life span of the average flea is two to five days when deprived of an animal host upon which to live. When provided with blood upon which to live they will live several weeks or even up to a year. Fleas seldom infest an entire house unless they have animals upon which to breed. To rid a house from fleas: (1) dispose of all animals about the premises, (2) remove all furniture, rugs, pictures, and thoroughly clean, (3) sweep all floors carefully and burn the sweepings. Sprinkle from five to ten pounds of naphthalene, either powdered or flaked, over the floors and close the rooms for 24 hours. The naphthalene may be used repeatedly on other floors.

**Flies.** The most important item in combating the fly is to destroy its breeding place. Prohibit the accumulation of manure wherever it is accessible to flies. Compel all owners of horse barns, etc., to provide dry and fly tight containers, preferably constructed of concrete, in which to store their horse manure. All manure should be removed once a week before the flies have time to develop. The same rule should apply to all other decaying or waste material. Fly poisons are effective but dangerous where there are children about. Fly traps are an aid in getting rid of flies. All homes should be provided with suitable screens and all places of business where food is manufactured or sold should likewise be protected.

**Head lice.** Equal parts of olive oil and kerosene oil thoroughly mixed and rubbed into the hair and covered with a muslin cloth over night, will kill lice if carried out for three or four nights.

**DANGER:** Keep away from open flame of any kind while head is wet with this solution.

To remove the eggs or nits, which are attached to the hair, comb thoroughly with a fine tooth comb dipped in warm vinegar. The vinegar dissolves the glue that attaches the egg to the hair.

**Body lice.** Thoroughly clean and disinfect outside clothing. Boil underclothing for ten minutes. A hot soda bath will allay the irritation resulting from the bites. Use  $\frac{1}{4}$  to  $\frac{1}{2}$  pound of soda to 5 to 10 gallons of water.

**Mosquitoes.** Prevent stagnant water from accumulating about the premises. Keep the building completely screened during the warm months. Ponds of stagnant water that cannot be drained should be sprayed frequently with crude petroleum.

**Rats and mice.** Three methods, consisting of rat-proofing the building, trapping, and poisoning are widely employed in the war against these dangerous and destructive pests.

The United States public health service recommends the use of barium carbonate in the following manner as an effective rat poison:

Three types of food can be chosen for use with barium carbonate, namely—

1. Meat, such as ground beef, sausage, or tinned salmon.
2. Fresh fruits or vegetables, such as cantaloupes, tomatoes, bananas, green corn, baked sweet potatoes, etc.
3. Miscellaneous foods, such as milk or cheese, peanut butter, bread, cake, and raw or cooked cereals.

One of each of the three types of food should be used, and each of the three chosen foods should be mixed separately with barium carbonate. The foods that can be reduced to unit particles should be mixed in the proportion of four parts of food to one part of barium, which is mixed in thoroughly with a spoon. With foods that will not crumble, cut in small pieces and cover thoroughly with the barium carbonate, then work it into the food with a knife.

Keep the three selected types of bait separate, and place them about ten feet apart in teaspoonful units alternately along the habitual routes of the rats or mice. Set fresh bait nightly, noting the foods preferred by the pests. Search daily for poisoned mice or rats.

Barium carbonate is slow in action, and rats and mice poisoned by it seek the open air, seldom dying in their runways.

**WARNING:** Beware of the poison hazard to children, fowls and pets in the use of barium carbonate.

## MATERNITY HOSPITALS

### LICENSING OF MATERNITY HOSPITALS

**48.43 Maternity hospitals; licenses.** (1) The term "maternity hospital" as used in sections 48.43 to 48.47 is defined as a place in which any person, firm, association or corporation receives, treats or cares for more than one woman within a period of six months because of pregnancy or in childbirth or within two weeks after childbirth, but not counting in case of an individual, women related to such person or his or her spouse by consanguinity within the sixth degree of kindred computed according to the civil law.

(2) The person or persons conducting any such maternity hospital shall obtain an annual license from the state board of health, and no person conducting a maternity hospital shall receive a woman because of pregnancy or in childbirth or within two weeks after childbirth, without first obtaining such license. Such license shall not be transferable and shall expire on the thirty-first day of December of the year for which issued unless sooner revoked by the state board of health.

(3) Each such license shall state the name and address of the licensee, the specific location of the premises used and the number of women and infants that may be cared for or treated therein at any one time. No greater number of women or infants shall be lodged or cared for at any one time in any maternity hospital than is authorized by the license and no premises shall be used other than those authorized by the license. A record of licenses issued shall be kept by the state board of health.

(4) No license for a maternity hospital shall be renewed unless the person licensed to conduct the same shall have faithfully observed all of the provisions of sections 48.43 to 48.46 and the rules and regulations of the state board of health issued thereunder. Before renewing any such license the state board of health shall secure from the state board of control a certification that the licensee has complied with all requirements of sections 48.44 to 48.46.

**48.44 Application for license; supervision; records.** (1) No license for a maternity hospital shall be granted without an investigation as in this section provided. Whenever application for a license is made for a maternity hospital, the state board of health shall forthwith give notice of such application to the local health officer. The local health officer shall make such investigation of such application for license as he shall deem necessary and shall then make his recommendation to the state board of health regarding granting of such license. If within a reasonable time, but not exceeding thirty days, the local health officer has not made a recommendation to the state board of health upon any application for a license to conduct a maternity hospital the state board of health shall make the necessary investigation. The investigation of any application for a license to conduct a maternity hospital shall include an inquiry as to the number of cubic feet of air space available for each patient, the facilities for ventilation and the admission of sunlight to the rooms used for the care of mothers and their infants. No license shall be issued unless the state board of health is satisfied that the physical equipment of the place to be used as a maternity hospital is adequate for the proper care of mothers and infants. The state board of health and the local health officer shall keep informed of the nature and reputation of every such maternity hospital and shall visit and inspect the same as often as they deem necessary and for such purposes shall at all reasonable hours be given free and unrestricted access to every part thereof. The members and authorized agents of the state board of control shall have access to such records as maternity hospitals are required to maintain under this section, and they shall be furnished with any information which they may require and which is in possession of such hospitals or the persons conducting the same and which is in relation to the welfare of the children of unmarried mothers.

(2) Each license shall specify in general terms the kind of maternity hospital which the license covers. The state board of health shall make such general rules and regulations for the various kinds of maternity hospitals as shall be necessary to effect the purposes of sections 48.43 to 48.45.

(3) The state board of health with the approval of the state board of control shall prescribe forms for the registration and record of women cared for in pregnancy or in childbirth or within two weeks after childbirth in maternity hospitals. Every maternity hospital shall maintain a complete record of every such patient and her infant on the forms so prescribed, which record shall be kept in the office of such maternity hospital.

(4) No person connected with a maternity hospital shall directly or indirectly disclose the contents of its records as such, except in a judicial proceeding where the same



## MATERNITY HOSPITALS

is material or for the information of the state board of health, the state board of control, or the local health officer. Nothing herein shall be construed to limit or modify the provisions of section 325.21.

**48.45 Conduct of maternity hospitals.** (1) No person conducting or in any way connected with the conduct of any maternity hospital shall in any way directly or indirectly offer to dispose of any child or hold himself out as being able to dispose of children in any manner.

(2) Whenever any woman is received in a maternity hospital because of pregnancy or in childbirth or within two weeks after childbirth, such hospital shall use due diligence to ascertain whether such patient is married; and if there is reason to believe that her child is or will be when born an illegitimate child, such hospital shall report to the state board of control within twenty-four hours, by registered mail, the presence of such woman.

**48.46 Revocation of licenses.** (1) The state board of health may revoke the license for any maternity hospital if the persons licensed to conduct the same shall have violated any provision of sections 48.43 to 48.46 or any of the rules and regulations of the state board of health issued thereunder or the provisions of such license.

(2) No license for a maternity hospital shall be revoked unless the holders of such license shall have notice in writing of the grounds for such proposed revocation, a public hearing upon at least ten days' written notice, and opportunity thereat to present testimony and to confront witnesses. Such notice may be given either by personal service thereof or by mailing the same by registered mail to the holder of such license at the address therein specified.

**48.47 Penalties.** (1) Any person, firm, association or corporation found guilty of violating any of the provisions of sections 48.43 to 48.45 regulating maternity hospitals, shall be punished by a fine of not less than ten nor more than five hundred dollars, or by imprisonment in the county jail for not more than one year, and said term of imprisonment in case of an association or corporation may be imposed upon its officers who participated in said violation.

## CHILD WELFARE AND PUBLIC HEALTH NURSING

### BUREAU OF MATERNAL AND CHILD HEALTH AND PUBLIC HEALTH NURSING

The bureau of maternal and child health and public health nursing has functioned in an educational and an advisory capacity since its creation in 1919. In 1936 activities were greatly extended when federal funds became available to the states under provisions of the Social Security Act. Such Social Security funds were provided for the extension of work in rural areas and areas of extreme economic distress.

The function of the bureau is the conservation of lives and the early establishment of health for the people of the state. The work is organized on a district basis with advisory service for program planning through the central offices. In this way programs are adapted to the needs of the territories served. The more important services are as follows:

**Educational health conferences** organized by local public health nurses and served by state staff. Expectant mothers, infants, and preschool children are enrolled at these conferences; the children are given a complete physical examination but no treatments of any type. All cases needing care are referred to the family physician. The conferences are primarily educational, and at each conference an attempt is made to have exhibits and group instruction carried on through the use of posters, film strips, and occasionally motion picture films.

**Adult classes.** Staff members conduct classes for adults, consisting of a series of lectures at weekly or monthly intervals, on the physiology and hygiene of pregnancy, problems of child care and training and all phases of child development.

**Trailer classroom.** This unit carries educational programs on maternal and child care to the more rural parts of Wisconsin. It is so equipped that in areas where electricity is available, sound or silent motion pictures suited to the topics under discussion can be shown.

**Nutrition.** The nutritionist conducts classes for public health nurses throughout the state, and posters and exhibits on nutrition are prepared.

**Advisory service on school health.** A full-time physician is available for work with the state department of public instruction and the state normal schools to aid in the development of health education programs.

**Lectures to organized groups and radio talks** on all phases of prenatal care, child care and child training, nutrition, and accident prevention are given.

**Film library.** Health films and films on child care are distributed through the district offices or loaned directly to interested groups. The bureau has prepared four 35 mm. film strips for use at educational health conferences and adult classes, and five motion pictures, four for lay groups and one for the medical profession.

**Prenatal letter service.** Any mother enrolled by her physician or by any other individual for this service receives the booklet, "Prenatal Care", and a series of ten letters, the last being sent approximately six weeks after the expected date of delivery. With this series of letters a letter also goes to the "expectant father". Mothers enrolled receive literature on infant care at the time the eighth letter is sent.

**Educational leaflets** on child care and training, nutrition, and communicable diseases are available for distribution. **Posters, exhibits, and demonstration material** on home delivery, infant and preschool clothing, infant care equipment, and toys are available for loan to organized groups.

**Library service.** Books on child care and training, marital hygiene, sex education, nutrition, and home nursing have been placed on the shelves of the state traveling library. These are available to individuals anywhere in the state for a period of three weeks providing they will pay the return postage.

**Personal letter service.**

**School activities:**

**Infant hygiene in schools.** The Wisconsin manual, "Building Better Babies", and reference material are supplied to schools offering a child care course. Equipment for demonstration purposes is provided for circulation among the schools as well as exhibits of infant and preschool clothing. Certificates are issued by the state board of health to all girls completing at least ten hours of work in infant care.

The bureau offers classes to junior and senior students in selected high schools on the physiology and hygiene of pregnancy as well as advanced work on child care and training.



## CHILD WELFARE AND PUBLIC HEALTH NURSING

Special health talks and showings of movies are provided for schools on request. Staff members carry on health examinations and educational programs for the students in the county normal schools, teaching the policies and programs of the state board of health and the part which teachers can play in community activities.

**Statistical studies** of records are made as a guide in forming programs for maternal and child health.

### **Cooperative activities:**

**State aid.** Wisconsin offers \$1,000 in state aid to all counties employing one or more certified public health nurses. In addition to this the bureau of maternal and child health assigns additional funds available through provisions of the Social Security Act to a limited number of the counties of lowest economic evaluation that could not otherwise support a nursing service. In other areas with special problems, assistant nurses are assigned for a limited period of time. Sixty-three of the seventy-one counties in Wisconsin now have locally-supported public health nursing services.

**Advisory nursing service.** Through the central and district offices of the state board of health, advisory service is offered to 280 public health nurses in the state employed by the state, county, city, and school boards or V. N. A.'s (exclusive of the city of Milwaukee).

**Demonstration nursing programs** in two county health units. Additional nurses have been assigned in order to demonstrate the value of a more adequate generalized public health nursing service.

## CHAPTER 149.

## NURSING.

149.01	Committee.	149.07	Revocation.
149.02	Director.	149.08	Permit.
149.03	Examiners.	149.09	Public health nurses.
149.04	Application.	149.10	Exceptions.
149.05	Examination.	149.11	Administration.
149.06	Certificate.	149.12	Penalty.

**149.01 Committee.** (1) The state board of health shall appoint a committee on nursing education to consist of the state health officer, the director of nursing education, two from the state nurses' association, two from the state league of nursing education, one from the state hospital association, one from the Wisconsin Conference of the Catholic hospital association, one from the state medical society, and one from the public health nursing bureau of the state board of health. Each of such organizations shall submit a list of five names from which the representatives shall be selected for a term of two years.

(2) The director of nursing education shall act as secretary. Five members shall be a quorum. Special meetings may be called by the chairman or secretary or upon the written request of two members. The members shall receive actual necessary expenses but no compensation.

(3) The state board of health shall refer to the committee questions regarding nursing education for investigation, recommendation or other action.

(4) The committee shall maintain standards for and supervise schools for nurses, and place them on the accredited list on application and proof of qualification; make a study of nursing education and initiate rules, regulations and policies to improve it, and make rules and regulations for the administration of this chapter.

**Note:** Committee on nursing education appointed by state board of health can make rules whereby accredited training schools must require of student nurses that they have high school education or its equivalent. 19 Atty. Gen. 252.

Under (4) committee on nursing education has power to accredit schools for nurses and in proper case may remove school from accredited list after giving school hearing. 26 Atty. Gen. 400.

**149.02 Director.** The state board of health shall appoint, upon nomination of the committee on nursing education, a state director of nursing education, fix her salary, and prescribe her duties and provide clerical service. Such director shall have at least the following minimum qualifications:

(1) High school graduation or its education equivalent and graduation from an accredited school of nursing.

(2) A registered nurse.

(3) Five years' experience as an executive of a school of nursing of not less than thirty-five nurses.

**149.03 Examiners.** The state board of health shall appoint, upon nomination of the committee on nursing education, a board of examiners for nurses to consist of the director of nursing education, who shall act as secretary, and four registered nurses of not less than three years' experience, two with experience in the administration of a school for nurses, one a public health nurse, and one a private duty nurse. The original terms shall be two for two years, and two for three years from September 1, 1921. Thereafter the term of each shall be three years. Members shall be reimbursed actual and necessary expenses and receive eight dollars for each day engaged.

**149.04 Application.** A nurse over the age of twenty and of good moral character, who has a preliminary education of not less than one year's course in high school or its equivalent, who holds a diploma of graduation from an accredited school of nursing giving a course of not less than two years, or who will complete a full course in an accredited school for nurses within four months following the date of application, may apply to the state board of health for registration as a registered nurse, and upon payment of ten dollars shall be entitled to examination.

**149.05 Examination.** The board of examiners for nurses shall prepare written questions and prescribe rules and regulations, subject to the approval of the committee on nursing education, for conducting examinations, and the preservation of the examination papers for two years. Examinations shall be held at least twice a year at times and places designated by the state board of health, and at least thirty days' public notice shall be given.



## 149.06 NURSING

**149.06 Certificate.** (1) One complying with this chapter and passing a satisfactory examination shall receive a certificate of registration. The holder of a Wisconsin certificate as a registered nurse June 17, 1921, and the holder of such a certificate of another state having requirements which the state board of health determines to be at least equivalent to the requirements of this state, need not pass an examination.

(2) The certificate shall be issued by the secretary of the state board of health and countersigned by the secretary of the board of examiners. The recipient shall, within thirty days, record the certificate with the county clerk of her residence. The holder of such certificate is a "registered nurse" and may append "R. N." to her name.

(3) A registered nurse actually practicing shall annually during January file with the state board of health on furnished blanks a statement giving her name, residence and such other facts as the board require, with a re-registration fee of two dollars.

(4) No person shall practice or attempt to practice, as a registered, trained, certified or graduate nurse without a certificate, nor use the title, letters or anything else to indicate that she is a registered nurse.

**Note:** Subsection (4) and 149.10 do not prohibit any one from practicing as a nurse, but merely from practicing as a registered, trained, certified or graduate nurse without a registration certificate. *Nickley v. Eisenberg*, 206 W 265, 239 NW 426.

Registered nurse of another state may act as practical nurse but may not employ letters "R. N." 24 Atty. Gen. 563.

**149.07 Revocation.** The committee on nursing education may revoke a certificate of registration of any nurse who has been convicted of unprofessional or dishonorable conduct, or shown to be grossly incompetent, or if the certificate was obtained through error or fraud, upon notice in writing, specifying the charges, and time of hearing, not less than five days after service of the notice, and after hearing at which she shall have opportunity to produce testimony. A certificate revoked for gross incompetency, may, after one year, upon application be regranted in the discretion of the committee.

**149.08 Permit.** Graduate nurses from accredited schools, not registered, and who are actually practicing, must have a permit from the state board of health, for which two dollars shall be charged, to practice until she can qualify for registration.

**149.09 Public health nurses.** (1) The qualifications of all public health nurses or instructors hereafter entering such employment and not under direct supervision of a resident certified public health nurse, shall be determined by a committee of three examiners, one selected by the state board of health, one by the board of examiners for nurses, and one by the state superintendent of public instruction.

(2) Candidates recommended by the committee of examiners shall be certified by the state board of health to the local appointing body upon request, and appointment shall be made from the certified list.

(3) Public health nurses or instructors not working under direct supervision of a resident certified public health nurse shall make a written report monthly in triplicate, one copy to the employing board, one to the local directing committee or officer, and one to the state board of health, showing the work done. The state board of health through its bureau of public health nursing shall examine the report and make recommendations for the improvement and the development of the nursing service.

(4) The state board of health shall prescribe forms or appliances, and notify the nurses where they can be purchased.

(5) This section shall not apply to cities of the first class. [1931 c. 174]

**149.10 Exceptions.** This chapter shall not be construed to affect nursing by friends, members of the family or person not graduated from an accredited training school, nor be construed to interfere with members of religious communities or orders having charge of hospitals or taking care of the sick in their homes, except that they shall not assume to be registered, trained, certified or graduate nurses.

**149.11 Administration.** The state board of health shall enforce this chapter and cause the prosecution of persons violating it. It shall keep a register of the names and addresses of registered nurses which shall be open to the public at reasonable times, a record of applications, and a detailed account of money received. The secretary shall make to the governor annual report of its proceedings under this chapter, including an itemized account of money received.

**149.12 Penalty.** Any person violating this chapter shall be fined for each offense not less than ten nor more than fifty dollars.

## NURSING

### Comment

The main objectives of the nurse practice act are: (1) to insure competent professional nursing service for the care of the sick; (2) to protect the title of the professional nurse against the non-professional worker.

**Compulsory registration.** Nurses practicing as graduate, trained, registered or certified nurses are required to hold certificates or unexpired permits from the state board of health. The registration fee is ten dollars.

**Re-registration.** Registered nurses actively engaged in the practice of their profession must re-register annually during the month of January. The re-registration fee is two dollars.

**Committee on nursing education.** The functions of the committee on nursing education are:

1. To establish minimum standards for accredited schools of nursing in the state.
2. To determine the eligibility of schools of nursing for state accreditation and to place them on the accredited list when eligible.
3. To provide for adequate supervision of the schools of nursing in the state.
4. To study trends in nursing education and to initiate rules, regulations and policies which will tend to improve nursing education.
5. To provide for and require state board examinations and registration of nurses.
6. To make rules and regulations for the administration of the law.

The duties of the committee, in the administration of the law, come under two headings: (1) state board examinations, registration and annual re-registration; (2) establishment of standards for and the accreditation of schools of nursing and the making of rules and regulations governing their supervision.

Through the accrediting program, young women who enter these schools are guaranteed a minimum professional program. Through the program of state supervision for schools, the institutions conducting schools are assisted in maintaining the minimum standards for accreditation.



## CHAPTER 160.

## HOTELS AND RESTAURANTS.

160.01	Definitions.	160.10	Joint employment.
160.02	Permit.	160.15	Definitions.
160.03	Fees.	160.16	Permit.
160.04	Application.	160.17	Fee.
160.05	Rule of health and safety.	160.18	Application.
160.06	Power of board.	160.19	Rule of public health and safety.
160.065	Butter and cheese to be served.	160.20	Enforcement by board of health.
160.07	Appeal.	160.21	Suspension or revocation of permit.
160.08	Penalty.	160.22	Appeal.
160.09	Authority of industrial commission.	160.23	Penalty.

**160.01 Definitions.** As used in this chapter:

(1) "Hotel" means all places wherein sleeping accommodations are offered for pay to transients, in five or more rooms, and all places used in connection.

(2) "Restaurant" means and includes any building, room or place wherein meals or lunches are prepared or served or sold to transients or the general public, and all places used in connection therewith. The term "meals or lunches" as used herein shall not include soft drinks, ice cream, milk, milk drinks, ices and confections. The serving in taverns of free lunches consisting of popcorn, cheese, crackers, pretzels, cold sausage, cured fish or bread and butter shall not constitute such taverns to be restaurants.

(3) "Public health and safety" means the highest degree of protection against infection, contagion and disease that a hotel or restaurant will reasonably permit. [1935 c. 14, 454; 1937 c. 321; 1939 c. 112]

**Note:** "Restaurant" means place where meals are sold for more than three days in succession. 24 Atty. Gen. 692.

**160.02 Permit.** (1) Everyone conducting a hotel or restaurant shall procure an annual permit from the state board of health for each place, except that one permit shall be sufficient for a combined hotel and restaurant where both are conducted in the same building and under the same management. The permit shall expire on December thirty-first, and shall not be transferable. No hotel or restaurant shall be conducted, advertised or held out to the public as such without permit.

(2) No permit shall be issued to conduct, operate or maintain any restaurant where there is conducted any other business except the sale of fermented malt and nonintoxicating beverages, intoxicating liquors, chewing gum, candies and other confections, tobaccos, or newspapers, unless such restaurant and the kitchens or other places used in connection therewith are completely and effectively separated from such other business in the same room or place by substantial partitions extending from the floor to the ceiling with self-closing doors for ingress and egress. The provisions of this subsection shall apply only to restaurants commencing business after the effective date of this subsection. [1935 c. 440]

**Note:** Restaurant exempt from (2) be- tinues exempt although it passes to another cause it existed prior to March 1, 1936, con- proprietor. 25 Atty. Gen. 199.

**160.03 Fee.** The annual fee for permits shall be three dollars, and for a hotel containing more than thirty sleeping rooms used for transients five dollars. The fee shall accompany the application.

**160.04 Application.** The board shall upon request furnish application blank which the applicant shall file, giving the full name and address of the owner and lessee of the building, the lessee and manager of the hotel or restaurant, the location and a full description of the building and property, and such other information as the board requires.

**160.05 Rule of health and safety.** Everyone, owning, managing, controlling or maintaining any hotel or restaurant shall conduct and maintain the same with a strict regard to the public health and safety and in conformity with this chapter and the rules, regulations and orders of the state board of health.

**160.06 Power of board.** The state board of health shall appoint assistants with such qualifications as the board deems necessary and fix their compensation, administer and enforce the laws relating to the public health and safety in hotels and restaurants, ascertain and prescribe what alterations, improvements or other means or methods are necessary to protect the public health and safety in hotels and restaurants, ascertain and

## 160.07 HOTELS AND RESTAURANTS

fix standards, and enforce orders for the adoption of such improvements and other means or methods to be as nearly uniform as practicable.

160.065 [Expired March 1, 1937]

**160.07 Appeal.** Anyone in interest being dissatisfied with an order of the board, may commence an action in the circuit court for Dane county against the board as defendant to vacate or modify the order on the ground that it is unlawful or unreasonable. Sections 101.26 and 101.27 shall govern so far as applicable.

**160.08 Penalty.** Anyone violating this chapter or rule or regulation of the state board of health hereunder shall be fined not less than twenty-five nor more than two hundred dollars; and anyone failing to comply with an order of the state board of health hereunder shall forfeit five dollars for each day of noncompliance after the order is served upon or directed to him, and in case of action under section 160.07, after lapse of a reasonable time after final determination.

**160.09 Authority of industrial commission.** Nothing in this chapter shall affect the authority of the industrial commission relative to places of employment, elevators, boilers, fire escapes, fire protection, or the construction of public buildings.

**160.10 Joint employment.** The state board of health and the industrial commission may employ experts, inspectors or other assistants jointly.

**160.15 Definitions.** As used in sections 160.15 to 160.23:

(1) "Tourist rooming house" means and includes all lodging places and tourist cabins, other than hotels, wherein sleeping accommodations are offered for pay, with or without meals, to tourists or transients. It does not include private boarding or rooming houses, ordinarily conducted as such, not accommodating tourists or transients.

(2) "Public health and safety" means the highest degree of protection against infection, contagion and disease that a tourist rooming house will reasonably permit.

(3) "Board" means the state board of health. [1937 c. 112; 1939 c. 111]

**160.16 Permit.** No person shall conduct, maintain or manage a tourist rooming house unless he holds a permit for each place from the state board of health. Each permit shall expire on December thirty-first in the year in which issued and shall not be transferable. No tourist rooming house shall be advertised or held out to the public as such without such permit. [1937 c. 112]

**160.17 Fee.** The annual fee for each permit shall be three dollars for a tourist rooming house containing up to thirty rooms and five dollars for thirty or more rooms. Such fee shall accompany the application. [1937 c. 112]

**160.18 Application.** The board shall upon request furnish an application blank which the applicant shall file with the board, giving the full name and address of the owner and lessee of the building, the manager or operator of the tourist rooming house, the location and a full description of the building and property and such other information as the board may require. [1937 c. 112]

**160.19 Rule of public health and safety.** Every tourist rooming house shall be conducted and maintained with a strict regard to the public health and safety and in conformity with sections 160.15 to 160.23 and the rules, regulations and orders of the state board of health. [1937 c. 112]

**160.20 Enforcement by board of health.** The board shall administer and enforce the laws relating to the public health and safety in tourist rooming houses, ascertain and prescribe what improvements or other means or methods are necessary to protect the public health and safety therein, ascertain and fix standards, and enforce orders for the adoption of such improvements and other means or methods to be as nearly uniform as practicable. [1937 c. 112]

**160.21 Suspension or revocation of permit.** The board may refuse or withhold issuance of a permit or may suspend or revoke a permit for violation of any provision of sections 160.15 to 160.23 or any rule, regulation or order of the board. [1937 c. 112]

**160.22 Appeal.** Any person in interest being aggrieved by any order of the board may commence an action in the circuit court against the board or defendant to vacate or modify the order on the ground that it is unlawful or unreasonable. Sections 101.26 and 101.27 shall govern so far as applicable. [1937 c. 112]

**160.23 Penalty.** Any person violating any provision of sections 160.15 to 160.23 or any rule, regulation or order of the board issued under said sections, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than twenty-five dollars nor more than two hundred dollars. [1937 c. 112]



### Comment

The state board of health is charged under the law regulating hotels, restaurants, tourist rooms and cabins with the duty of granting permits, for which a fee is charged, and enforcing a code of rules for the sanitary regulation of hotels, restaurants, tourist rooms and cabins, to insure the highest protection against infection, contagion and disease as possible.

The law providing for this work includes lunch stands or restaurants operated at county fairs and the state fair, and all such eating places are inspected each year. When this work is done the inspectors see that the food supply at fairs is protected from contamination, of good quality, that the proprietor and employes are free from communicable disease, that the garbage is disposed of in a satisfactory manner, that the toilets maintained are kept in a sanitary condition, that a suitable number of toilets are provided for both sexes.

The inspectors, under the law, and rules adopted by the state board of health, investigate cases of bad plumbing, unclean toilets and lavatories, inadequate and improper towels, poor lighting and ventilation, and in localities where outside toilets are necessary, make recommendations as to the location, construction and maintenance. The sanitary condition of kitchens, dining rooms, offices, sleeping rooms for transients, basement and premises connected with the building are carefully inspected. Dangerous methods of handling and storing foodstuffs are carefully looked into, the condition of refrigerators and ice boxes is inspected. The purity of the water supply, system of garbage disposal and condition of the linen and bedding are examined. Condition of the sleeping rooms relative to general sanitary condition, including heating, lighting, and ventilation, is also given proper consideration.

The law gives the state board of health power and jurisdiction as follows:

1. To license and inspect hotels, restaurants, tourist rooms and cabins.
2. Formulate rules and regulations which shall set a standard of sanitation and safety required in all hotels, restaurants, tourist rooms and cabins in the state.
3. Administer and enforce the laws relating to public health, safety and sanitation.
4. Investigate, ascertain, declare and prescribe what alterations, improvements or other methods are reasonably necessary to protect the public health.
5. Fix such reasonable standards, modify and enforce such reasonable orders for the adoption of improvements and other methods to be as nearly uniform as possible, as may be necessary to carry out all laws and lawful orders to protect the public health and safety.

The inspectors and also the expense of administering the law are paid from license fees received.

A copy of the rules and regulations governing hotels, restaurants, tourist rooms or cabins in Wisconsin can be obtained from the state board of health.

## BARBER SHOPS

### BARBER SHOPS

#### (Excerpts from Chapter 158, Wisconsin Statutes)

The state board of health is empowered under this chapter to prescribe and enforce rules and regulations governing the operation of barber shops.

**Section 158.02 (3)** reads as follows:

"If a barber shop or school, teaching barbering, be found insanitary or if the barber working therein be charged with imparting to another person a communicable disease, the board shall immediately order the local health officer to quarantine such barber shop or school, and the barber so charged shall not practice barbering until the quarantine is removed."

**Section 158.04 (5) (a)** prohibits a person who has an infectious, contagious, or communicable disease, in a communicable form, to practice barbering. Any barber having any such disease, shall return to work only upon written order of a physician, copy of which order shall be sent to the state board of health.

**Section 158.04 (5) (c)** provides that all instruments or tools of any material used upon a patron shall be properly sterilized.

**Section 158.04 (5) (e)** provides that barber shops shall be separate from any other line of business, or living rooms.

**Section 158.04 (6) and (7)** provide that water and sewer connections must be made before a barber shop is opened.

**Section 158.04 (9)** provides that clean linen must be used and worn.

The sanitary rules governing barber shops provide that barbering shall be practiced only in an established barber shop, except for sick or infirm persons in homes or hospitals, and that all barber shops shall be well lighted and well ventilated, and the use of styptic pencils, finger bowls, and lump alum is prohibited.

A copy of the barber law with sanitary regulations governing same may be obtained without charge from the state board of health.

### Comment

The state board of health is charged with making and enforcing rules and regulations governing the sanitary conditions of barber shops, of which approximately 3,000 are operating in Wisconsin, with an aggregate personnel of approximately 6,000 licensed persons.

Under the present system of barber shop inspection reforms in sanitary practices and conditions in Wisconsin shops have been widely effected. It is the aim to visit every shop in the state at least once a year and oftener if possible. Three practical barbers are employed as full-time officials to do the inspection work. The inspectors are required to make a written report of all shops inspected each week. If the shops are not in good condition, or if any of the rules governing barbering as promulgated by the state board of health are found violated, an order is issued by the board, giving the owners sufficient time to meet the requirements. Failure to comply with such an order is rare indeed. In fact, hearty cooperation has been shown by the better class of barbers in the matter of maintaining sanitary conditions. Inspection work of this character in itself is educational, and the effect has been decidedly beneficial throughout the state.

The supervision of barber shops under state authority has resulted in marked reform in various ways. We have abundant evidence of bad plumbing, ill-kept interiors and appliances, and unwholesome personal habits and methods formerly in vogue in many shops having been superseded largely by conditions which meet all the requirements of the state rules governing shops. Generally speaking, the barbers themselves, cooperating with the state board of health, have been earnest friends of this system of supervision, and today are responsible equally with the inspection law for the reforms accomplished.

In professions like that of barbering there is a continual need for the exercise of every sanitary precaution to safeguard the health of those who are served. The state barber inspectors are exerting a strong educational influence by their insistence upon the law's requirements in the matter of clean towels for every customer, by the demand that styptic pencils be abandoned in favor of the powdered product, and by enforcing the rule that persons suffering from a communicable disease in a communicable form must refrain from practicing barbering.



The legislature changed the barber law materially in 1935. One of the provisions extended the period of apprenticeship from two to three years and requires all apprentices regardless of age, to be indentured. There were 99 indentured apprentices issued permits during 1939.

Three itinerant barber science instructors are employed by the state board of vocational and adult education, to teach classes in various cities throughout the state during the school year. A number of experienced master barbers have availed themselves of this opportunity to become acquainted with new ideas and methods of improving their work. The apprentices are required to attend vocational school, where one is available, and if none is available they must take a correspondence course in barber science.

Each year an increasing number of barbers leave the field through retirement or death. In recent years their number has exceeded that of newly licensed barbers.

## BEAUTY PARLORS

### BEAUTY PARLORS

The 1939 session of the legislature amended the beauty parlor law materially, and the following sanitary regulations governing beauty parlors and schools of cosmetology were recently adopted by the state board of health. These regulations form a part of the code by which the board enforces sanitary standards over beauty parlors in accordance with the statutes:

#### Rule 1.

No part of any premises shall be licensed unless properly equipped for use as a beauty parlor and maintained in a sanitary condition and unless there is a substantial dust and odor-proof partition or wall extending from the floor to the ceiling, separating the beauty parlor from the remainder of said premises. No beauty parlor shall be used as a living, dining, or sleeping room. Access to such beauty parlor shall be by means of a separate entrance. Interior doors leading to the beauty parlor from adjacent rooms shall be securely locked and closed and made unusable. Every beauty parlor shall furnish adequate toilet facilities for its patrons. A separate compartment shall be provided for employes' clothes and shoes. Plans and specifications for any beauty parlor established, altered, moved to a new location or which changes ownership, after the taking effect of this section, showing details as to entrances, windows, openings, partitions, ventilation, toilets, water supply, waste connections, sanitary equipment and other matters affecting the suitability of the premises, as the board may require, shall be submitted to and approved by the board before the premises may be used for a beauty parlor.

No beauty parlor shall be allowed in the same room where food or ice cream is served or sold. No branch of cosmetic art shall be practiced in a living, dining or sleeping room, excepting for sick or infirm persons in homes or hospitals, or by cosmetologists licensed as itinerants. No beauty parlor shall be opened for business until it has been properly equipped and approved.

#### Rule 3.

All beauty parlors and schools of cosmetology shall be well lighted and well ventilated, and such beauty parlors and schools of cosmetology, together with furniture, equipment, instruments, utensils, floors, walls and ceilings, shall be kept in a clean, orderly and sanitary condition. Floors must be covered with non-absorbent material. Fabric rugs must not be used. Booth partitions or dividers of solid material must be 8 to 12 inches from the floor and not more than 5½ feet high.

### Comment

Four persons are employed in the inspection of beauty parlors and schools of cosmetology and a written report is made of the inspection of each beauty parlor.

The frequent inspection of these places has resulted in a vast improvement of sanitary conditions and the use of clean linen, combs, brushes, and other utensils used in contact with the patron.

The state board of health is empowered under the beauty parlor law to regulate schools of cosmetic art in the state, enforcing the statutory provisions and rules and regulations which it has adopted.

An examining board composed of three persons engaged in this industry hold frequent examinations for operators, and managers to determine as to their fitness to practice beauty culture.

Applicants must pass an examination in both the practical and theoretical phases of the work.

A copy of the beauty parlor law and sanitary regulations can be obtained from the state board of health.



## CHAPTER 161.

## UNIFORM NARCOTIC DRUG ACT.

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161.02	Acts prohibited.	161.18	Exceptions and exemptions not required to be negated.
161.03	License required to manufacture or wholesale.	161.19	Enforcement and co-operation.
161.04	Qualification for license.	161.20	Penalties.
161.05	Sale on written orders; use of official written orders; lawful possession; administering narcotics.	161.21	Prosecution under federal narcotic laws.
161.06	Sales by apothecaries.	161.22	Constitutionality.
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161.13	Common nuisances.	161.28	Drug addicts, evidence, treatment, penalty.
161.14	Narcotics when delivered to state.	161.29	Board of control to provide treatment of drug addicts; Milwaukee county treatment.
161.15	Notice of conviction sent to licensing board.	161.30	Addicts as voluntary patients.
161.16	Records confidential.		

**161.01 Definitions.** The following words and phrases, as used in this chapter, shall have the following meanings, unless the context otherwise requires:

(1) "Person" includes any corporation, association, copartnership, or one or more individuals.

(2) "Physician" means a person licensed under section 147.17, when such person is engaged in his profession under circumstances that authorize him under such license then and there to practice by the use of narcotic drugs.

(3) "Dentist" means a person authorized by law to practice dentistry in this state.

(4) "Veterinarian" means a person authorized by law to practice veterinary medicine in this state.

(5) "Manufacturer" means a person who by compounding, mixing, cultivating, growing or other process, produces or prepares narcotic drugs, but does not include an apothecary who compounds narcotic drugs to be sold or dispensed on prescriptions.

(6) "Wholesaler" means a person who supplies narcotic drugs that he himself has not produced nor prepared, on official written orders, but not on prescriptions.

(7) "Apothecary" means a licensed pharmacist as defined by the laws of this state and, where the context so requires, the owner of a store or other place of business where narcotic drugs are compounded or dispensed by a licensed pharmacist; but nothing in this chapter shall be construed as conferring on a person who is not registered nor licensed as a pharmacist any authority, right or privilege that is not granted to him by the pharmacy laws of this state.

(8) "Hospital" means an institution for the care and treatment of the sick and injured, approved by the state board of health as proper to be entrusted with the custody of narcotic drugs and the professional use of narcotic drugs under the direction of a physician, dentist or veterinarian.

(9) "Laboratory" means a laboratory approved by the state board of health as proper to be intrusted with the custody of narcotic drugs and the use of narcotic drugs for scientific and medical purposes and for purposes of instruction.

(10) "Sale" includes barter, exchange or gift, or offer therefor, and each such transaction made by any person, whether as principal, proprietor, agent, servant or employee.

(11) "Coca leaves" includes cocaine and any compound, manufacture, salt, derivative, mixture or preparation of coca leaves, except derivatives of coca leaves which do not contain cocaine, eegonine or substances from which cocaine or eegonine may be synthesized or made.

(12) "Opium" includes morphine, codeine and heroin and any compound, manufacture, salt, derivative, mixture or preparation of opium, but does not include apomorphine or any of its salts.

(13) "Cannabis" includes the following substances under whatever names they be designated: (a) the dried flowering or fruiting tops of the pistillate plant Cannabis Sativa L., from which the resin has not been extracted, (b) the resin extracted from such tops,

## 161.02 NARCOTICS

and (c) every compound, manufacture, salt, derivative, mixture or preparation of such resin, or of such tops from which the resin has not been extracted.

(14) "Narcotic drugs" means coca leaves, opium, Cannabis and every substance neither chemically nor physically distinguishable from them.

(15) "Federal Narcotic Laws" means the laws of the United States relating to opium, coca leaves and other narcotic drugs.

(16) "Official written order" means an order written on a form provided for that purpose by the United States commissioner of narcotics, under any laws of the United States making provision therefor if such order forms are authorized and required by federal law, and if no such order form is provided, then on an official form provided for that purpose by the state board of health.

(17) "Dispense" includes distribute, leave with, give away, dispose of or deliver.

(18) "Registry number" means the number assigned to each person registered under the Federal Narcotic Laws. [1935 c. 306]

**161.02 Acts prohibited.** It shall be unlawful for any person to manufacture, possess, have under his control, sell, prescribe, administer, dispense or compound any narcotic drug, except as authorized in this chapter. [1935 c. 306]

**161.03 License required to manufacture or wholesale.** No person shall manufacture, compound, mix, cultivate, grow or by any other process produce or prepare narcotic drugs, and no person as a wholesaler shall supply the same, without having first obtained a license so to do from the state board of health. [1935 c. 306]

**161.04 Qualification for license.** (1) No license shall be issued under the foregoing section unless and until the applicant therefor has furnished proof satisfactory to the state board of health:

(a) That the applicant is of good moral character or, if the applicant be an association or corporation, that the managing officers are of good moral character.

(b) That the applicant is equipped as to land, buildings and paraphernalia properly to carry on the business described in his application.

(2) No license shall be granted to any person who has within five years been convicted of a wilful violation of any law of the United States, or of any state, relating to opium, coca leaves or other narcotic drugs, or to any person who is a narcotic drug addict.

(3) The state board of health may suspend or revoke any license for cause. [1935 c. 306]

**161.05 Sale on written orders; use of official written orders; lawful possession; administering narcotics.** (1) A duly licensed manufacturer or wholesaler may sell and dispense narcotic drugs to any of the following persons, but only on official written orders:

(a) To a manufacturer, wholesaler or apothecary.

(b) To a physician, dentist or veterinarian.

(c) To a person in charge of a hospital, but only for use by or in that hospital.

(d) To a person in charge of a laboratory, but only for use in that laboratory for scientific and medical purposes.

(2) A duly licensed manufacturer or wholesaler may sell narcotic drugs to any of the following persons:

(a) On a special written order accompanied by a certificate of exemption, as required by the Federal Narcotic Laws, to a person in the employ of the United States government or any state, territorial, district, county, municipal or insular government, purchasing, receiving, possessing or dispensing narcotic drugs by reason of his official duties.

(b) To a master of a ship or a person in charge of any aircraft upon which no physician is regularly employed, for the actual medical needs of persons on board such ship or aircraft, when not in port, provided, such narcotic drugs shall be sold to the master of such ship or person in charge of such aircraft only in pursuance of a special order form approved by a commissioned medical officer or acting assistant surgeon of the United States Public Health Service.

(c) To a person in a foreign country if the provisions of the Federal Narcotic Laws are complied with.

(3) An official written order for any narcotic drug shall be signed in duplicate by the person giving said order or by his duly authorized agent. The original shall be presented to the person who sells or dispenses the narcotic drug or drugs named therein. In event of the acceptance of such order by said person, each party to the transaction shall preserve his copy of such order for a period of two years in such a way as to be readily accessible for inspection by any public officer or employee engaged in the enforcement of this chapter. It shall be deemed a compliance with this subsection if the parties to the transaction have complied with the Federal Narcotic Laws, respecting the requirements governing the use of order forms.



(4) Possession of or control of narcotic drugs obtained as authorized by this section shall be lawful if in the regular course of business, occupation, profession, employment or duty of the possessor.

(5) A person in charge of a hospital or of a laboratory, or in the employ of this state or of any other state, or of any political subdivision thereof, and a master or other proper officer of a ship or aircraft, who obtains narcotic drugs under the provisions of this section or otherwise, shall not administer, nor dispense, nor otherwise use such drugs, within this state, except within the scope of his employment or official duty, and then only for scientific or medicinal purposes and subject to the provisions of this chapter. [1935 c. 306]

**161.06 Sales by apothecaries.** (1) An apothecary, in good faith, may sell and dispense narcotic drugs to any person upon a written prescription of a physician, dentist or veterinarian, dated and signed by the person prescribing on the day when issued and bearing the full name and address of the patient for whom, or of the owner of the animal for which, the drug is dispensed, and the full name, address and registry number under the Federal Narcotic Laws of the person prescribing, if he is required by those laws to be so registered. If the prescription be for an animal, it shall state the species of animal for which the drug is prescribed. The person filling the prescription shall write the date of filling and his own signature on the face of the prescription. The prescription shall be retained on file by the proprietor of the pharmacy in which it is filled for a period of two years, so as to be readily accessible for inspection by any public officer or employee engaged in the enforcement of this chapter. The prescription shall not be refilled.

(2) The legal owner of any stock of narcotic drugs in a pharmacy, upon discontinuance of dealing in said drugs, may sell said stock to a manufacturer, wholesaler or apothecary, but only on an official written order.

(3) An apothecary, only upon an official written order, may sell to a physician, dentist or veterinarian, in quantities not exceeding one ounce at any one time, aqueous or oleaginous solutions of which the content of narcotic drugs does not exceed a proportion greater than twenty per cent of the complete solution, to be used for medical purposes. [1935 c. 306]

**161.07 Professional use of narcotic drugs.** (1) **PHYSICIANS AND DENTISTS.** A physician or a dentist, in good faith and in the course of his professional practice only, may prescribe, administer and dispense narcotic drugs, or he may cause the same to be administered by a nurse or interne under his direction and supervision.

(2) **VETERINARIANS.** A veterinarian, in good faith and in the course of his professional practice only, and not for use by a human being, may prescribe, administer and dispense narcotic drugs, and he may cause them to be administered by an assistant or orderly under his direction and supervision.

(3) **RETURN OF UNUSED DRUGS.** Any person who has obtained from a physician, dentist or veterinarian any narcotic drug for administration to a patient during the absence of such physician, dentist or veterinarian, shall return to such physician, dentist or veterinarian any unused portion of such drug, when it is no longer required by the patient. [1935 c. 306]

**161.08 Preparations exempted.** Except as otherwise in this chapter specifically provided, this chapter shall not apply to the following cases:

(1) Prescribing, administering, dispensing or selling at retail of any medicinal preparation that contains in one fluid ounce, or if a solid or semisolid preparation, in one avoirdupois ounce, (a) not more than two grains of opium, (b) not more than one-quarter of a grain of morphine or of any of its salts, (c) not more than one grain of codeine or of any of its salts, (d) not more than one-eighth of a grain of heroin or any of its salts, (e) not more than one-half of a grain of extract of Cannabis nor more than one-half of a grain of any more potent derivative or preparation of Cannabis, (f) and not more than one of the drugs named above in clauses (a), (b), (c), (d) and (e).

(2) Prescribing, administering, dispensing or selling at retail of liniments, ointments and other preparations, that are susceptible of external use only and that contain narcotic drugs in such combinations as prevent their being readily extracted from such liniments, ointments or preparations, except that this chapter shall apply to all liniments, ointments and other preparations, that contain coca leaves in any quantity or combination.

(3) The exemptions authorized by this section shall be subject to the following conditions:

(a) No person shall prescribe, administer, dispense or sell under the exemptions of this section, to any one person, or for the use of any one person or animal, any preparation or preparations included within this section, when he knows, or can by reasonable diligence ascertain, that such prescribing, administering, dispensing or selling will provide the person to whom or for whose use, or the owner of the animal for the use of which, such preparation

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is prescribed, administered, dispensed or sold, within any forty-eight consecutive hours, with more than four grains of opium, or more than one-half grain of morphine or of any of its salts, or more than two grains of codeine or any of its salts, or more than one-quarter of a grain of heroin or of any of its salts, or more than one grain of extract of Cannabis or one grain of any more potent derivative or preparation of Cannabis, or will provide such person or the owner of such animal, within forty-eight consecutive hours, with more than one preparation exempted by this section from the operation of this chapter.

(b) The medicinal preparation, or the liniment, ointment or other preparation susceptible of external use only, prescribed, administered, dispensed or sold, shall contain, in addition to the narcotic drug in it, some drug or drugs conferring upon it medicinal qualities other than those possessed by the narcotic drug alone. Such preparation shall be prescribed, administered, dispensed and sold in good faith as a medicine, and not for the purpose of evading the provisions of this chapter.

(4) Nothing in this section shall be construed to limit the kind and quantity of any narcotic drug that may be prescribed, administered, dispensed or sold, to any person or for the use of any person or animal, when it is prescribed, administered, dispensed or sold, in compliance with the general provisions of this chapter. [1935 c. 306]

**161.09 Records required.** (1) **PHYSICIANS, DENTISTS, VETERINARIANS AND OTHER AUTHORIZED PERSONS.** Every physician, dentist, veterinarian or other person who is authorized to administer or professionally use narcotic drugs, shall keep a record of such drugs received by him, and a record of all such drugs administered, dispensed or professionally used by him otherwise than by prescription. It shall, however, be deemed a sufficient compliance with this subsection if any such person using small quantities of solutions or other preparations of such drugs for local applications, shall keep a record of the quantity, character and potency of such solutions or other preparations purchased or made up by him, and of the dates when purchased or made up, without keeping a record of the amount of such solution or other preparation applied by him to individual patients, and no record need be kept of narcotic drugs administered, dispensed or professionally used in the treatment of any one patient, when the amount administered, dispensed or professionally used for that purpose does not exceed in any forty-eight consecutive hours, (a) four grains of opium, or (b) one-half of a grain of morphine or of any of its salts, or (c) two grains of codeine or of any of its salts, or (d) one-fourth of a grain of heroin or of any of its salts, or (e) one grain of extract of Cannabis or one grain of any more potent derivative or preparation of Cannabis, or (f) a quantity of any other narcotic drug or any combination of narcotic drugs that does not exceed in pharmacologic potency any one of the drugs named above in the quantity stated.

(2) **MANUFACTURERS AND WHOLESALERS.** Manufacturers and wholesalers shall keep records of all narcotic drugs compounded, mixed, cultivated, grown or by any other process produced or prepared, and of all narcotic drugs received and disposed of by them, in accordance with the provisions of subsection (5) of this section.

(3) **APOTHECARIES.** Apothecaries shall keep records of all narcotic drugs received and disposed of by them, in accordance with the provisions of subsection (5) of this section.

(4) **VENDORS OF EXEMPTED PREPARATIONS.** Every person who purchases for resale, or who sells narcotic drug preparations exempted by section 161.08, shall keep a record showing the quantities and kinds thereof received and sold, or disposed of otherwise, in accordance with the provisions of subsection (5) of this section.

(5) **FORM AND PRESERVATION OF RECORDS.** The form of records shall be prescribed by the state board of health. The record of narcotic drugs received shall in every case show the date of receipt, the name and address of the person from whom received, and the kind and quantity of drugs received; the kind and quantity of narcotic drugs produced or removed from process of manufacture, and the date of such production or removal from process of manufacture; and the record shall in every case show the proportion of morphine, cocaine or ecgonine contained in or producible from crude opium or coca leaves received or produced, and the proportion of resin contained in or producible from the dried flowering or fruiting tops of the pistillate plant Cannabis Sativa L., from which the resin has not been extracted, received or produced. The record of all narcotic drugs sold, administered, dispensed or otherwise disposed of, shall show the date of selling, administering or dispensing, the name and address of the person to whom, or for whose use, or the owner and species of animal for which the drugs were sold, administered or dispensed, and the kind and quantity of drugs. Every such record shall be kept for a period of two years from the date of the transaction recorded. The keeping of a record required by or under the Federal Narcotic Laws, containing substantially the same information as is specified above, shall constitute compliance with this section, except that every such record shall contain a detailed list of narcotic drugs lost, destroyed or stolen, if any, the kind and



quantity of such drugs, and the date of the discovery of such loss, destruction or theft. [1935 c. 306]

**161.10 Labels.** (1) Whenever a manufacturer sells or dispenses a narcotic drug, and whenever a wholesaler sells or dispenses a narcotic drug in a package prepared by him, he shall securely affix to each package in which that drug is contained a label showing in legible English the name and address of the vendor and the quantity, kind and form of narcotic drug contained therein. No person, except an apothecary for the purpose of filling a prescription under this chapter shall alter, deface or remove any label so affixed.

(2) Whenever an apothecary sells or dispenses any narcotic drug on a prescription issued by a physician, dentist or veterinarian, he shall affix to the container in which such drug is sold or dispensed, a label showing his own name, address and registry number or the name, address and registry number of the apothecary for whom he is lawfully acting; the name and address of the patient or, if the patient is an animal, the name and address of the owner of the animal and the species of the animal; the name, address and registry number of the physician, dentist or veterinarian, by whom the prescription was written; and such directions as may be stated on the prescription. No person shall alter, deface or remove any label so affixed. [1935 c. 306]

**161.11 Authorized possession of narcotics by individuals.** A person to whom or for whose use any narcotic drug has been prescribed, sold or dispensed, by a physician, dentist, apothecary or other person authorized under the provisions of section 161.05, and the owner of any animal for which any such drug has been prescribed, sold or dispensed, by a veterinarian, may lawfully possess it only in the container in which it was delivered to him by the person selling or dispensing the same. [1935 c. 306]

**161.12 Persons exempted.** The provisions of this chapter restricting the possessing and having control of narcotic drugs shall not apply to common carriers or to warehousemen, while engaged in lawfully transporting or storing such drugs, or to any employe of the same acting within the scope of his employment; or to public officers or their employes in the performance of their official duties requiring possession or control of narcotic drugs; or to temporary incidental possession by employes or agents of persons lawfully entitled to possession, or by persons whose possession is for the purpose of aiding public officers in performing their official duties. [1935 c. 306]

**161.13 Common nuisances.** Any store, shop, warehouse, dwelling house, building, vehicle, boat, aircraft or any place whatever, which is resorted to by narcotic drug addicts for the purpose of using narcotic drugs or which is used for the illegal keeping or selling of the same, shall be deemed a common nuisance. No person shall keep or maintain such a common nuisance. [1935 c. 306]

**161.14 Narcotics when delivered to state.** All narcotic drugs, the lawful possession of which is not established or the title to which cannot be ascertained, which have come into the custody of a peace officer, shall be forfeited, and disposed of as follows:

(a) Except as in this section otherwise provided, the court or magistrate having jurisdiction shall order such narcotic drugs forfeited and destroyed. A record of the place where said drugs were seized, of the kinds and quantities of drugs so destroyed, and of the time, place and manner of destruction, shall be kept, and a return under oath, reporting said destruction, shall be made to the court or magistrate and to the United States commissioner of narcotics by the officer who destroys them.

(b) Upon written application by the state health officer, the court or magistrate by whom the forfeiture of narcotic drugs has been decreed may order the delivery of any of them, except heroin and its salts and derivatives, to said state health officer, for distribution or destruction, as hereinafter provided.

(c) Upon application by any hospital within this state, not operated for private gain, the state health officer may in his discretion deliver any narcotic drugs that have come into his custody by authority of this section to the applicant for medicinal use. The state health officer may from time to time deliver excess stocks of such narcotic drugs to the United States commissioner of narcotics, or may destroy the same.

(d) The state health officer shall keep a full and complete record of all drugs received and of all drugs disposed of, showing the exact kinds, quantities and forms of such drugs; the persons from whom received and to whom delivered; by whose authority received, delivered and destroyed; and the dates of the receipts, disposal or destruction, which record shall be open to inspection by all federal or state officers charged with the enforcement of federal and state narcotic laws. [1935 c. 306]

**161.15 Notice of conviction sent to licensing board.** On the conviction of any person of the violation of any provision of this chapter, a copy of the judgment and sentence, and of the opinion of the court or magistrate, if any opinion be filed, shall be sent by the clerk of the court, or by the magistrate, to the board or officer, if any, by whom the convicted

## 161.16 NARCOTICS

defendant has been licensed or registered to practice his profession or to carry on his business. On the conviction of any such person, the court may, in its discretion, suspend or revoke the license or registration of the convicted defendant to practice his profession or to carry on his business. On the application of any person whose license or registration has been suspended or revoked, and upon proper showing and for good cause, said board or officer may reinstate such license or registration. This section shall not apply in the case of any convictions to which the provisions of subsections (3) and (4) of section 147.20 apply, but in such case the conviction, the person, and the license shall be subject to the provisions of said subsections. [1935 c. 306]

**161.16 Records confidential.** Prescriptions, orders and records required by this chapter, and stocks of narcotic drugs, shall be open for inspection only to federal, state, county and municipal officers, whose duty it is to enforce the laws of this state or of the United States relating to narcotic drugs. No officer having knowledge by virtue of his office of any such prescription, order or record shall divulge such knowledge, except in connection with a prosecution or proceeding in court or before a magistrate or a licensing or registration board or officer, to which prosecution or proceeding the person to whom such prescriptions, orders or records relate is a party. [1935 c. 306]

**161.17 Fraud or deceit.** (1) No person shall obtain or attempt to obtain a narcotic drug, or procure or attempt to procure the administration of a narcotic drug, (a) by fraud, deceit, misrepresentation or subterfuge; or (b) by the forgery or alteration of a prescription or of any written order; or (c) by the concealment of a material fact; or (d) by the use of a false name or the giving of a false address.

(2) Information communicated to a physician in an effort unlawfully to procure a narcotic drug, or unlawfully to procure the administration of any such drug, shall not be deemed a privileged communication.

(3) No person shall wilfully make a false statement in any prescription, order, report or record, required by this chapter.

(4) No person shall, for the purpose of obtaining a narcotic drug, falsely assume the title of, or represent himself to be, a manufacturer, wholesaler, apothecary, physician, dentist, veterinarian or other authorized person.

(5) No person shall make or utter any false or forged prescription or false or forged written order.

(6) No person shall affix any false or forged label to a package or receptacle containing narcotic drugs.

(7) The provisions of this section shall apply to all transactions relating to narcotic drugs under the provisions of section 161.08, in the same way as they apply to transactions under all other sections. [1935 c. 306]

**161.18 Exceptions and exemptions not required to be negated.** In any complaint, information or indictment, and in any action or proceeding brought for the enforcement of any provision of this chapter, it shall not be necessary to negative any exception, excuse, proviso or exemption, contained in this act, and the burden of proof of any such exception, excuse, proviso or exemption, shall be upon the defendant. [1935 c. 306]

**161.19 Enforcement and co-operation.** (1) It is the duty of the state board of health and state board of pharmacy, their officers, agents, inspectors and representatives, and of all peace officers within the state, and of all district attorneys, to enforce all provisions of this chapter, except those specifically delegated, and to cooperate with all agencies charged with the enforcement of the laws of the United States, of this state, and of all other states, relating to narcotic drugs.

(2) The clerks of all courts having criminal jurisdiction shall make and transmit to the board of health, on January 1 and July 1 of each year upon forms furnished by the state board of health, reports of the number of persons convicted (upon trial or by plea of guilty or by plea of nolo contendere) of violations of provisions of chapter 161. [1935 c. 306; 1939 c. 271, 448; 1939 c. 517 s. 9b]

**161.20 Penalties.** Any person violating any provision of this chapter shall upon conviction be punished, for the first offense, by a fine not exceeding two hundred dollars, or by imprisonment in jail for not exceeding three months, or by both such fine and imprisonment, and for any subsequent offense, by a fine not less than one hundred and not exceeding one thousand dollars, or by imprisonment in state prison for not exceeding five years, or by both such fine and imprisonment. [1935 c. 306]

**161.21 Prosecution under Federal Narcotic Laws.** No person shall be prosecuted for a violation of any provision of this chapter if such person has been acquitted or convicted under the Federal Narcotic Laws of the same act or omission which, it is alleged, constitutes a violation of this chapter. [1935 c. 306]



**161.22 Constitutionality.** If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable. [1935 c. 306]

**161.23 Interpretation.** This chapter shall be so interpreted and construed as to make uniform the laws of those states which enact it. [1935 c. 306]

**161.24 Construction.** Nothing in this chapter shall authorize the sale, dispensing, prescription, administration or use of drugs of any kind by any person or under any circumstances contrary to any other provision of law; nor shall anything in this chapter be construed to prohibit physicians, dentists, or veterinarians from compounding or mixing narcotic drugs in good faith for dispensing or administering in the course of their professional practice. [1935 c. 306]

**161.25 Name of act.** This chapter may be cited as the Uniform Narcotic Drug Act. [1935 c. 306]

**161.26 Advertising narcotics.** No physician, dentist or veterinarian and no druggist or pharmacist shall solicit by advertisement or otherwise the applications for prescriptions for narcotic drugs, nor shall he advertise any treatment, the principal element of which consists in administering or using a narcotic drug, except that a wholesale druggist or manufacturing pharmacist or sanitarium may advertise in publications intended for circulation among the medical profession and drug trade generally. [1935 c. 306]

**161.27 Possession of opium pipes.** The possession or sale of smoking preparations of hemp or loco weed, of a pipe used for smoking opium, or the usual attachments thereto or other contrivances used for smoking opium, is unlawful and such things shall be seized and destroyed by a peace officer. [1935 c. 306]

**161.275 Possession and use of marijuana; penalty.** The growing, cultivating, mixing, compounding, having control of, preparing, possessing, using, prescribing, selling, administering or dispensing marijuana or hemp, or the leaves thereof, for beverage or smoking purposes or the preparing, compounding, mixing, possessing, having control of, using, prescribing, selling, administering or dispensing any infusion of marijuana or hemp, or of its leaves, for beverage purposes is unlawful and any person violating any provision of this section shall upon conviction be punished by imprisonment in the state prison not less than one year nor more than two years or by a fine of not less than one hundred dollars nor more than five hundred dollars or by both such fine and imprisonment. [1939 c. 49]

**161.28 Drug addicts, evidence, treatment, penalty.** No person shall take or use narcotic drugs habitually, excessively, or except in pursuance to a prescription for permitted use as prescribed in this chapter. The possession of narcotic drugs by persons not authorized to have such possession, or their possession of a hypodermic syringe and hypodermic needle shall be prima facie evidence of the unlawful use of such drugs. Any person violating this section shall be punished by a fine of not more than one hundred dollars, or shall be committed to an institution for the treatment of drug addicts, for not less than six months, or until cured of his addiction to the use of narcotic drugs, but not exceeding one year. Upon the certificate of the superintendent of the institution to which such person has been committed, that he is cured of his addiction, such person shall be released. Any person so committed who has been confined in such institution for at least six months, and who has been refused a certificate of cure and release by the superintendent, may obtain a trial of the question of the cure of his addiction in the same manner and with the same effect as is provided for the retrial of insane persons by section 51.11. [1935 c. 306]

**161.29 Board of control to provide treatment of drug addicts; Milwaukee county treatment.** The state board of control shall make provisions for treatment of narcotic drug addicts at one of the state institutions to which the commitment provided in section 161.28 shall be made from counties, villages and cities of the second, third and fourth classes. Provision shall also be made by counties having a population of two hundred fifty thousand for the treatment of narcotic drug addicts in local institutions, to which all commitments in pursuance of said section in such counties shall be made. For each such drug addict treated in any local institution of any county having a population of two hundred fifty thousand, such county shall receive the same allowance from the state as it receives for the care of other patients in the same institution. [1935 c. 306]

**161.30 Addicts as voluntary patients.** Any resident of this state, who is addicted to the use of narcotic drugs, may upon his agreement to remain in such institution for a period of six months, or longer if necessary for his cure, and his written application stating his addiction, supported by the certificate of at least two physicians, who shall have been

## 161.30 NARCOTICS

duly licensed to practice and shall have had at least two years' experience in the practice of their profession, based upon personal examination of such person, be admitted as a voluntary patient to any institution provided by the state for the treatment of drug addicts, or if such person is a resident of a county having a population of two hundred fifty thousand to such institution provided by such county. Such person, if so admitted to either of such institutions, if not indigent, shall be required to pay such sum for his maintenance and at such times as the state board of control or such counties may by rule or by ordinance prescribe. Otherwise all voluntary patients shall have the same standing, and be subject to the same laws, rules and regulations as drug addicts, except that they shall have the right to leave such institution at any time if in the judgment of the superintendent they are in a fit condition, on giving five days' notice to the superintendent of their desire to do so. Any such voluntary submission to admission and treatment shall operate as a bar to any prosecution for any violation of section 161.28 theretofore committed by him. [1935 c. 306]



### Other Laws Relating to Drugs

**97.68 Label on vaccine virus, etc.** No person shall sell or gratuitously distribute any vaccine virus, therapeutical serum, modified toxins or similar products with the intention that they shall be used in the prophylaxis or treatment of contagious disease, without having his or its name stamped in plain English letters thereon or on the package or bottle containing the same. [1935 c. 550 s. 277]

**97.69 Label on poisonous medicine.** Any person who shall by himself, his servant or agent or as the servant or agent of any other person, sell, exchange, deliver, or have in his possession with intent to sell or exchange or expose or offer for sale or exchange any medicine known as patent or proprietary, or of which the formula is kept secret by the manufacturer, which contains morphine, strychnine, cocaine or poisonous or narcotic alkaloid or drug, in any quantities which the state board of health shall deem harmful to the life or health of the public, unless the presence of the same be distinctly shown by a label upon the bottle or package and upon the outer wrapper thereof, shall be punished as provided in subsection (4) of section 97.72. [1935 c. 550 s. 278]

**97.70 Depositing deleterious drugs on doorstep, etc.** Any person who shall by himself, his servant or agent or as the servant or agent of any other person leave, throw or deposit or have in his possession with intent to leave, throw or deposit upon the doorstep or premises owned or occupied by another or who shall deliver to any child under the age of fifteen years, when not accompanied by an adult, any patent or proprietary medicine or any preparation, pill, tablet or drug that contains poison or other ingredients deleterious to health, as a sample or in any quantity whatever for the purpose of advertising or otherwise, shall be deemed guilty of a misdemeanor and shall be punished as provided in subsection (4) of section 97.72.

## CHAPTER 155.

## CORPSES.

155.01 Transportation.  
155.02 Distribution.

155.03 Restrictions.  
155.04 Penalty.

**155.01 Transportation.** (1) No human corpse shall be accepted for transportation, unless prepared in conformity to the rules and regulations of the state board of health.

(2) Disinterred corpses are declared dangerous to health, and shall not be transported unless each corpse is accompanied by a separate permit from the local health officer for removal, showing the name, age, place, cause of death and medical attendant, the point to which to be shipped, and the undertaker in charge and attached to such permit the consent of the state board of health. Local health officers shall refuse permit when the cause of death is given as heart failure unless the physician in charge states that the cause was not diphtheria.

**155.02 Distribution.** A public officer having charge of the corpse of a deceased person required to be buried at public expense shall promptly notify the relatives if he knows or can with reasonable diligence ascertain any of them, and deliver it to any relative who shall claim it. If none claim it within forty-eight hours after death, or if those notified acquiesce, such officer,

(1) If he be located in the western United States judicial district, at the expense of the University of Wisconsin, shall notify immediately its demonstrator of anatomy by telegraph, if practicable, or in other expeditious manner. The demonstrator when generally authorized by the regents shall immediately inform the officer whether the corpse is desired, and if it is, the officer shall deliver it properly encased for transportation without charge to the agent of the express company at the nearest railroad station, consigned as the demonstrator directs. If previous application for bodies shall have been made to the regents of the university by any incorporated college or medical school, in said district, the demonstrator shall under the direction of the president of the university, equitably distribute such corpses between the university and the applicants, the institution receiving the corpse paying the transportation expenses. If the demonstrator shall not desire the corpse in such district he shall immediately notify Marquette University or the Goodman College of Embalming at Milwaukee or any accredited college of embalming in this state, and the public officer upon immediate notice shall, in like manner consign the corpse to Marquette University or the Goodman College of Embalming or any accredited college of embalming in this state, which shall first present him an order therefor signed by its president or secretary, stating that the corpse shall be used only for the promotion of anatomical science within this state, and that the remains not so used, shall be decently buried or cremated in compliance with regulations by the state board of health.

(2) If he be located in the eastern United States judicial district he shall give like notice to the agent therefor of Marquette University or the Goodman College of Embalming at Milwaukee or any accredited college of embalming in this state, and shall in like manner consign the corpse as such agent directs. If previous application for bodies shall have been made to such agent by any other incorporated college or medical school or accredited college of embalming in such district, such agent shall, under the direction of the president of said university or accredited college of embalming, equitably distribute such corpses between Marquette University, the Goodman College of Embalming and the applicants, the institution receiving it paying the transportation expenses and presenting to such public officer like order thereof.

**155.03 Restrictions.** (1) The corpse of one who died with smallpox, diphtheria, or scarlet fever, or who in his last sickness shall request to be buried or cremated, and of a stranger or traveler who shall have suddenly died, shall not be so disposed of, and no person having charge of a corpse authorized to be so disposed of, shall sell or deliver it to be used outside the state.

(2) Upon receipt of the corpse it shall be properly embalmed and retained for twelve days before being used or dismembered and shall be delivered to any relative claiming it upon payment of expenses incurred and satisfactory proof of relationship.

**155.04 Penalty.** Any officer or person having a corpse in charge, and refusing to report and deliver it, when required by this chapter, or violating the provisions forbidding sale or delivery thereof, to be used outside the state, shall be liable to the person, university or medical school aggrieved, in the sum of fifty dollars.



## EMBALMING AND FUNERAL DIRECTORS DIVISION

Under the provisions of Section 156.01 to Section 156.17 of the statutes, the state board of health licenses all embalmers and funeral directors practicing in the state by examination and provides, by means of rules and regulations, safe methods for the transportation of the dead, including the disinterment and removal of disinterred bodies. Copies of the transportation rules may be obtained free upon application to the state board of health.

**156.09 Display of licenses.** Funeral director's and embalmer's licenses and certificates of apprenticeship shall be displayed conspicuously in the place of business conducted by the licensee or where the licensee or apprentice is employed.

**156.12 Prohibited practices.** 1. No embalmer shall embalm a dead human body when he has information reasonably indicating crime in connection with the cause of death, until permission of the coroner has first been obtained.

2. No licensed embalmer shall sign a certificate stating that he has embalmed or prepared a dead human body, when in fact, some other person embalmed or prepared said dead human body; provided, that this subsection shall not be construed as preventing a registered apprentice embalmer assisting the licensed embalmer from so certifying.

3. No licensed funeral director or licensed embalmer shall, directly or indirectly, solicit a funeral service or the right to prepare a dead human body for burial or transportation either before or after death has occurred, or pay or cause to be paid any sum of money or other valuable consideration for the securing of the right to do such work.

4. No licensed funeral director or licensed embalmer shall publish, or cause to be published, any false, misleading or fraudulent advertisement, or take undue advantage of his patrons or commit any fraudulent act in the conduct of his business, or do any other act not in accord with the rules and regulations established by the board and not in accord with proper business practice as applied to the business or profession of funeral directing and embalming.

5. Any licensed embalmer or licensed funeral director who knowingly permits any person not licensed as an embalmer to embalm or prepare for burial any body under his jurisdiction, or who permits any person not licensed as a funeral director to hold or conduct any funeral service for which he is responsible, or who permits any person not licensed as an embalmer or funeral director to remove any dead human body from any home, hospital or institution for preparation, or who permits any person under his supervision or associated with him to violate the provisions of this chapter shall be guilty of violating the provisions of this chapter, and subject to the penalties provided therein. The foregoing provisions shall not be construed as to restrict the activities of a duly registered apprentice operating under the supervision of a licensed embalmer or licensed funeral director.

6. No licensed funeral director or licensed embalmer, shall operate a mortuary or funeral establishment located within the confines of, or connected with, any cemetery. No licensed funeral director or licensed embalmer or his or her employe shall, directly or indirectly, receive or accept any commission, fee, remuneration or benefit of any kind from any cemetery, mausoleum or crematory or from any proprietor or agent thereof in connection with the sale or transfer of any cemetery lot, entombment vault, burial privilege or cremation, nor act, directly or indirectly, as a broker or jobber of any cemetery property or interest therein.

**156.14 Funeral directors; embalmers; who to employ.** No public officer, employe or officer of any public institution, physician or surgeon shall send, or cause to be sent, to any funeral director, undertaker, mortician or embalmer, the corpse of any deceased person, without having first made due inquiry as to the desires of the next of kin, or any persons who may be chargeable with the funeral expenses of such deceased person, and if any such kin or person be found, his authority or direction shall be received as to the disposal of such corpse.

**156.15 Penalties.** 1. Any person violating any provision of this chapter or any rule or regulation of the board and of the committee relating to its subject matter, shall be fined not less than fifty nor more than two hundred dollars, or imprisoned not less than thirty days nor more than three months.

2. A funeral director or embalmer who fails to file a death certificate and obtain burial permit before interring, depositing in vault or tomb, cremating or otherwise disposing of a dead human body, upon being convicted and fined for a second offense, shall have his license at once revoked, and he shall not be relicensed for at least one year and only after a regular examination.

## **CORPSES**

### **Rules of the State Board of Health for the Transportation of the Dead**

**Transportation Rule 1.** A burial-transit permit issued by any local registrar shall be required for each dead body transported by common carrier. Said burial-transit permit shall be in the form prescribed by the state board of health and shall agree, in the main, with the burial-transit permit form recommended by the state and provincial health officers and the Association of State Registration Executives.

**Transportation Rule 2.** A burial-transmit permit shall be attached in a strong envelope to the shipping case when a body is to be transported by common carrier.

**Transportation Rule 3.** Any body to be shipped by common carrier shall be embalmed if its condition permits. If embalming is not possible, or if the body is in a state of decomposition, it shall be shipped only after enclosure in a strong, tightly sealed outer case.

**Transportation Rule 4.** No disinterred body dead from any disease or causes shall be transported by common carrier unless approved in writing by the health authorities having jurisdiction at the place of disinterment and unless accompanied by a copy of the death certificate. In addition, a burial-transit permit shall be required as provided in Rule 1.

All disinterred remains shall be enclosed in metal or metal-lined boxes and hermetically sealed, providing that bodies in a receiving vault when prepared by a licensed embalmer shall not be regarded as disinterred bodies until after the expiration of thirty days.

**Transportation Rule 6.** When disinterred bodies are removed from one cemetery to another or from one part of a cemetery to another, the written consent of the health officer of the district where the body is buried shall be sufficient authority for the removal.

### **Rules and Regulations Governing the Preparation and Embalming of Dead Human Bodies**

**Rule 13.** For all deaths at hospitals and other public or private institutions the superintendent shall keep a record on blanks furnished by the state board of health giving name of deceased, date of death and the name and address of funeral director or other person who removed the body from the institution.

**Rule 14.** The record provided for in Rule 13 shall be made in duplicate, one copy of which shall be preserved by the hospital or other institution and the original record for each death shall be forwarded to the state board of health or, in cities employing a full time local health officer, to the local board of health by the superintendent or other person in charge on the first day of each month.

**Rule 16.** Hospital authorities shall make provision for holding bodies until relatives, friends or the public authorities determine what disposition shall be made of the remains, provided the hospital may cause to be moved bodies unclaimed after twelve hours from the time of death and after due notice to the local health officer.

**Rule 19.** Metal or metal-lined caskets or metal-lined outside cases shall not be required for the local interment of a body dead from any cause whatsoever.

**Rule 23.** It shall be unlawful for any funeral director to remove or cause to be removed from a hospital or other institution any dead adult human body and transport to destination, in any conveyance other than a hearse, mortuary ambulance, or by common carrier.

**Rule 26.** These rules shall not prevent any person from preparing for burial, or conducting the funeral, of any deceased member of his family when such procedure is found desirable.

### **Prevention and Control of Communicable Diseases**

**Rule 20.** 1. Public or church funerals shall not be held for those dead of the following quarantinable diseases: namely, epidemic meningitis, cholera (Asiatic), diphtheria, infantile paralysis (acute anterior poliomyelitis), plague, scarlet fever, small-pox, typhus fever and yellow fever. Only the family and persons exposed to the disease and customary attendants may attend.

As exception to the above, the health officer having jurisdiction or his appointed representative may, at his discretion, permit the public to assemble outside the home



or mortuary, or at the grave. When permission is so given, such official shall attend, and require the public, during transportation to and from the grave, and at all other times, to remain apart from, and out of contact with the family and persons exposed to the disease. When funeral services are held in the jurisdiction of one health officer and burial is in another, each health officer, or someone designated by him, shall officiate in his district.

2. The above rules shall apply to funerals of those dead from suspected cases, as well as true cases of the diseases above specified, but shall not apply to those dying from late complications of such diseases after the communicable period is past, and after the family is released from quarantine.

3. During period of epidemic disease of any nature found sufficiently malignant to justify private funerals, and in the case of death from unusual forms of virulent disease, apparently communicable in nature, the local board of health, with the consent of the state board of health may prohibit public funerals for those dead from such disease.

(Note: The rule requiring burial of infected bodies in 36 hours has been repealed.)

### **Burial of Indigents**

**Burial of indigents.** Section 49.01 of the Statutes requires each town, village, or city to support all poor and indigent persons who are lawfully residents of such town, village, or city. This may also include burial expense but in every case there should be a definite understanding with the local authorities regarding the charges to be made. Section 49.03 requires the local authorities of any town, village, or city to provide a decent burial for nonresident persons; the amount to be paid is determined by the local governing bodies. Under Section 45.16, each town, village, and city is required to give all honorably discharged soldiers, sailors, or marines, and the wives and widows of such soldiers, sailors, and marines, a decent burial, the expense in each case shall not be less than \$35.00 nor more than \$100.00.

### **General Instructions**

A local registrar is not permitted to make a charge for issuing burial permits. Neither can a physician who fills out and signs the medical certificate of the cause of death make a charge for this service.

A duly licensed osteopath may sign death certificates.

The local officer designated by law to collect birth, death and marriage records is the town clerk in towns, the village clerk in incorporated villages, and the health officer in cities.

In all cases of death from violence where murder or manslaughter is suspected, the district attorney or coroner should be notified at once.

### **Who is Authorized to Fill Out and Sign the Medical Certificate of the Cause of Death**

1. The physician in attendance.

2. If there is no physician in attendance or if the service of such physician cannot be obtained, then any physician called in for the purpose can fill out and sign the medical certificate.

3. If there is no physician in attendance and the services of a physician cannot be obtained, the local registrar is authorized to fill out and sign the statement of the cause of death from the best information he can obtain from relatives or friends.

### **Coroners' Cases**

The county coroner is now authorized to hold an inquest without being ordered to do so by the district attorney. If an inquest is held, the coroner is required to fill out and sign the medical certificate of the cause of death as determined by the inquest. If an inquest is not held, the coroner, under an opinion from the attorney-general, is *not* authorized to fill out and sign the medical certificate.

## **CORPSES**

### **Administration and Enforcement**

**Section 156.02** provides for a field educator whose duty it is to enforce all rules and regulations governing the transportation, embalming and burial of dead human bodies. Any complaints or violations should be filed with the Embalming Division of the State Board of Health, Madison, Wisconsin.

### **Mausoleums, Vaults**

**157.12 Vaults, etc.** 1. Any municipality may construct and maintain in the municipal cemetery a suitable vault for the keeping of corpses; and the expense shall be paid as the municipal governing body directs.

2. (a) No person shall build a structure for corpses, wholly or partly above ground, except in compliance with regulations of the state board of health, and plans and specifications previously approved by such board in writing. The state board of health may adopt and enforce regulations governing the location, materials and construction of the same. Municipalities may make and enforce additional consistent regulations. No public or community mausoleum, or columbarium, shall, after the passage of this act, be constructed or used for the disposition of the remains of the human dead unless the same shall be erected within the confines of an established cemetery, containing twenty acres or more, and which shall have been in existence for a period of ten years. No building or structure for use or intended to be used as a public mausoleum or columbarium for the permanent disposition therein of the remains of deceased persons, shall hereafter be constructed, and no such building now constructed and not now used for the permanent disposition of the remains of deceased persons, shall be altered or changed for such use, or used for such permanent disposition purposes, unless constructed in accordance with plans and specifications approved by the state board of health and of such materials and workmanship as will insure its durability and permanence, as dictated and determined at the time by modern mausoleum construction and engineering science. These provisions shall not affect any public or community mausoleum or columbarium which is now being built or under construction, the plans and specifications for which have been approved by the state board of health, or any additions or extensions to any public or community mausoleum or columbarium now constructed or now in the course of construction, the plans and specifications for which shall be approved by the state board of health. Such board shall control the construction, and see that the approved plans and specifications are followed. No departure shall be made except upon approval in writing by such board. No such structure shall be used until such board certifies in writing that approved plans and specifications were followed and that the maintenance fund has been deposited.



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